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Washington, Tuesday, June 18, 1940

The President

EXECUTIVE ORDER

ESTABLISHING THE NOXUBEE NATIONAL WILDLIFE REFUGE, MISSISSIPPI

WHEREAS certain lands in the State of Mississippi have been acquired under the authority of Title II of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), and Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525); and

WHEREAS by Executive Order No. 7908,[1] dated June 9, 1938, all the right, title, and interest of the United States in such lands as were acquired under the said Title II of the National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935 were transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of the said Title III of the Bankhead-Jones Farm Tenant Act and the related provisions thereof; and

WHEREAS it appears that the reservation of such lands and certain intermingled public lands as a wildlife refuge would be in the public interest;

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me as President of the United States and by Section 32, Title III of the said Bankhead-Jones Farm Tenant Act, and by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, it is ordered that the lands acquired by the United States, and the intermingled public lands, within the following-described area, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of the Interior as a refuge and breeding ground for migratory birds and other wildlife;

Provided, that, with respect to such lands as have been acquired under the said Title II of the National Industrial Recovery Act, the said Emergency Relief Appropriation Act of 1935, and the said Title III of the Bankhead-Jones Farm Tenant Act, the authority conferred by the said Title III of the Bankhead-Jones Farm Tenant Act upon the Secretary of Agriculture shall continue to be exercised by him with respect to all activities, with the exception of wildlife as hereinabove provided, including grazing, forestry, recreational facilities and activities, and the right to permit the taking of fish, such authority to be exercised as mutually agreed upon by the Secretary of Agriculture and the Secretary of the Interior;

And provided further, that any private lands within the area shall become a part of the refuge upon the acquisition of title thereto or control thereof by the United States.

Choctaw Meridian

T. 15 N., R. 13 E.,
sec. 1, N½, N½SW¼, and SE¼SW¼;
sec. 2, E½NE¼;
sec. 3, NW¼NW¼;
sec. 4, NW¼;
sec. 5, NE¼, N½NW¼, SE¼NW¼, and NE¼SW¼;
sec. 6, that part of the N½N½ lying east of the Louisville-Starkville Road;
T. 16 N., R. 13 E.,
sec. 11, E½SE¼;
sec. 12, S½;
sec. 13, all;
sec. 14, E½E½;
secs. 21 and 22, that part lying south of the Louisville-Starkville Road;
sec. 23, E½E½, and that part of the SW¼ and W½SE¼, lying south and east of the Louisville-Starkville Road;
secs. 24 and 25, all;
secs. 26, 27, and 28, that part lying south of the Louisville-Starkville Road;
secs. 29 and 31, that part lying east of the Louisville-Starkville Road;
sec. 32, E½ and that part of the W½ lying south of the Louisville-Starkville Road;
sec. 33, all;
sec. 34, N½ and SW¼;
sec. 35, N½, N½SW¼, SE¼SW¼, and SE¼;
sec. 36, all;
T. 17 N., R. 13 E.,
sec. 24, NE¼, diagonal NE½NW¼, S½SW¼, and SE¼;
sec. 25, that part lying north of the Parker Slough Road;
sec. 26, that part of the E½ lying north of the Parker Slough Road and that part of the S½NW¼ and N½SW¼ lying east of the Louisville-Starkville Road and north of the Parker Slough Road;

[1] 3 F.R. 1389.

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THE PRESIDENT

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FEDERAL REGISTER

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sec. 36, that part lying north of the Louisville-Starkville Road;
T. 16 N., R. 14 E.,
secs. 1, 2, and 3, all;
sec. 4, E½;
sec. 7, S½;
sec. 8, that part of the S½ lying west of the Louisville-Starkville Road, and that part lying south and east of the Bluff Lake Road;
sec. 9, E½ and that part of the W½ lying south and east of the Bluff Lake Road;
secs. 10 to 31, inclusive, all;
sec. 32, N½, N½SW¼, and N½SE¼;
sec. 33, N½, N½SW¼, SE¼SW¼, and SE¼;
sec. 34, N½, SW¼, and W½SE¼;
sec. 35, N½;
T. 17 N., R. 14 E.,
secs. 19, 20, and 21, all;
sec. 25, S½SE¼;
sec. 26, SW¼ and SW¼SE¼;
secs. 27, 28, 29, and 30, all;
sec. 31, E½ and that part of the NW¼ lying north of the Parker Slough Road;
secs. 32 to 36, inclusive, all;
T. 16 N., R. 15 E.,
sec. 2, lots 2, 3, 4, and 7;
secs. 3 to 8, inclusive, all;
secs. 17 to 20, inclusive, all;
sec. 27, NW¼SW¼;
sec. 28, NE¼NW¼, S½NW¼, SW¼, and N½SE¼;
sec. 29, all;
sec. 30, N½, N½SE¼, and SE¼SE¼;
sec. 32, NE¼;
sec. 33, W½NW¼;
T. 17 N., R. 15 E.,
sec. 30, S½SW¼;
sec. 31, W½NW¼ and S½;
sec. 32, SW¼SW¼;
aggregating 49,200 acres.

It is unlawful for any person to hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon for such purposes, except under such rules or regulations as may be prescribed by the Secretary of the Interior.

Executive Order No. 6964, of February 5, 1935, withdrawing for classification and other purposes all vacant, unreserved, and unappropriated public lands in the State of Mississippi, and certain other States, is hereby amended to exclude from the provisions of that order, as amended, the public lands in the above-described area.

This reservation shall be known as the Noxubee National Wildlife Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1940.

[No. 8444]

[F. R. Doc. 40-2431; Filed, June 15, 1940; 10:04 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

CHAPTER I—FARM CREDIT ADMINISTRATION

[F.C.A. 180]

PART 3—FUNCTIONS OF ADMINISTRATIVE OFFICERS

AUTHORITY, AND DESIGNATION OF ORDER OF PRECEDENCE, OF DEPUTY LAND BANK COMMISSIONERS, AND CHIEF, APPRAISAL SUBDIVISION, TO ACT AS LAND BANK COMMISSIONER

Section 3.6[1] of Title 6, Code of Federal Regulations, is amended to read as follows:

§ 3.6 *Authority, and designation of order of precedence, of Deputy Land Bank Commissioners, and Chief, Appraisal Subdivision, to act as Land Bank Commissioner.* W. E. Rhea, Deputy Land Bank Commissioner, is authorized and empowered to execute and perform any and all functions, powers, authority, and duties which the Land Bank Com-

[1] 5 F.R. 1103.

missioner is authorized and empowered to execute or perform in the event the Land Bank Commissioner is absent or unable to serve for any reason.

J. R. Isleib, Deputy Land Bank Commissioner, is authorized and empowered to execute and perform any and all functions, powers, authority, and duties which the Land Bank Commissioner is authorized and empowered to execute or perform in the event the Land Bank Commissioner and Deputy Land Bank Commissioner Rhea are absent or unable to serve for any reason.

John A. Smith, Deputy Land Bank Commissioner, is authorized and empowered to execute and perform any and all functions, powers, authority, and duties which the Land Bank Commissioner is authorized and empowered to execute or perform in the event the Land Bank Commissioner and Deputy Land Bank Commissioners Rhea and Isleib are absent or unable to serve for any reason.

P. L. Gaddis, Chief, Appraisal Subdivision, is authorized and empowered to execute and perform any and all functions, powers, authority, and duties which the Land Bank Commissioner is authorized and empowered to execute or perform in the event the Land Bank Commissioner and Deputy Land Bank Commissioners Rhea, Isleib, and Smith are absent or unable to serve for any reason. (E.O. 6084, Mar. 27, 1933, 6 CFR 1.1 (m), Memorandum No. 846, Sec. of Agric., Jan. 6, 1940. Secs. 39, 40, 48 Stat. 50, 51; 12 U.S.C. 637, 636) [F.C.A. Order No. 288, June 17, 1940]

[SEAL] C. W. WARBURTON,
Acting Governor.

[F. R. Doc. 40-2435; Filed, June 15, 1940; 11:47 a. m.]

[F.C.A. 179]

PART 11—NATIONAL FARM LOAN ASSOCIATION

STOCK SUBSCRIPTION REQUIRED IN CONNECTION WITH ADDITIONAL LOAN

Title 6, Code of Federal Regulations, is amended by adding a new section, § 11.2059, to read as follows:

§ 11.2059 Where an additional loan as defined in § 19.4009[1] is applied for, the capital stock of the national farm loan association through which the outstanding loan was made is not impaired or the only stock outstanding in connection with the outstanding loan is bank stock, and the applicant is entitled to the proceeds of the stock in the association or the bank which was issued in connection with such loan, the Farm Credit Administration approves the retirement, under section 7 of the Federal Farm Loan Act (sec. 7, 39 Stat. 365; 12 U.S.C. 721), of stock of the Federal land bank held as security in connection with such loan in an amount sufficient to permit the applicant to use the proceeds of the association or bank stock to purchase the stock required in connection with the additional loan; provided that such retirement is authorized by the board of directors of the bank, and provided further that the outstanding stock shall not be reduced to an amount less than 5 percent of the unmatured principal balance of the outstanding loan. If the total of the unmatured principal balance of the outstanding loan plus the amount of the additional loan exceeds the original face amount of the outstanding loan, it will be necessary under this procedure for the borrower to purchase additional stock only in an amount equal to 5 percent of the excess. (Sec. 6, 47 Stat. 14, 12 U.S.C. 665; sec. 7, 39 Stat. 365, 12 U.S.C. 721; E.O. 6084, March 27, 1933) [Revision No. 122, Manual for Federal Land Banks, June 15, 1940]

[SEAL] ROY M. GREEN,
Acting Land Bank Commissioner.

[F. R. Doc. 40-2434; Filed, June 15, 1940; 11:47 a. m.]

[1] 4 F.R. 3955.

TITLE 7—AGRICULTURE

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION

[F. C. I.-Regulations-101-W.]

PART 403—1941 WHEAT CROP INSURANCE REGULATIONS

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, approved February 16, 1938, as amended by Public Law No. 691, 75th Congress, approved June 22, 1938, these regulations are hereby published and prescribed to be in force and effect, with respect to the 1941 Wheat Crop Insurance Program, until amended or superseded by regulations hereafter made.

The Federal Crop Insurance Program for wheat is part of the general program of the United States Department of Agriculture administered for the benefit of agriculture.

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DEFINITIONS

§ 403.1 *Meaning of terms.* For the purposes of the 1941 Wheat Crop Insurance Program, the term—

Department means the United States Department of Agriculture.

Secretary means the Secretary of Agriculture of the United States.

Corporation means the Federal Crop Insurance Corporation.

Board means the Board of Directors of the Corporation.

Manager means the Manager of the Corporation.

Branch manager means the representative of the Corporation in charge of a branch office of the Corporation.

Insurance contract means the contract of insurance entered into between the applicant and the Corporation by virtue of the application for insurance and these regulations and amendments thereto.

Application means a properly executed form prescribed by the Corporation for the purpose of applying for insurance.

Base period means the crop years 1930–39, inclusive.

Adjusted average yield means the wheat yield established by the Federal Crop Insurance Corporation for the farm under the 1941 Wheat Crop Insurance Program on the basis of the yields of wheat per seeded acre on the farm during the base period, with adjustments by the Corporation, or, on the basis of appraisal where reliable and applicable data with respect to yields of wheat per seeded acre on the farm during the base period are not available.

Insured percentage means the percentage of the adjusted average yield for the farm covered, or to be covered, by insurance, and shall be either 50 or 75 percent.

Total insured production means the maximum number of bushels for which the insured may be indemnified under the insurance contract.

Premium for the insurance contract means the product of the acreage of the wheat crop seeded on the farm not in excess of the maximum insurable acreage, the premium rate per acre, and the applicant's interest in the wheat crop.

Wheat crop means all seeded winter wheat and spring wheat on the farm in any crop year which is normally harvested in that crop year but does not include volunteer or self-seeded wheat, succotash or true-type winter wheat seeded in the spring.

Maximum insurable acreage means the maximum number of acres of the wheat crop on the farm covered by the application which may be insured. Such acreage shall be (1) the wheat acreage allotment in the case of an allotment farm, (2) the permitted acreage of wheat in the case of a non-allotment farm, (3) the proportionate share of the wheat acreage allotment or permitted acreage, whichever is applicable, in the case of a field-rented tract constituting part of a farm, or (4) the proportionate share of the total wheat acreage allotment or permitted acreage, whichever is applicable, in the case of a farm joined with one or more farms to constitute one farm under the 1941 agricultural conservation program.

Proportionate share in the case of such field-rented tract shall be the acreage of wheat seeded unless the wheat allotment or permitted acreage for the farm is exceeded, in which case the proportionate share shall be the same percentage of the acreage seeded to wheat on such tract that the total wheat acreage allotment or permitted acreage, whichever is applicable, for the farm is of the total acreage seeded to wheat on the farm.

Proportionate share in the case of such farm joined with one or more farms to constitute one farm under the agricultural conservation program shall be the acreage seeded to wheat on such farm unless the total wheat acreage allotment or permitted acreage for the combined farms is exceeded, in which case the proportionate share shall be the same percentage of the acreage seeded to wheat on such farm that the total allotment or permitted acreage, whichever is applicable, is of the acreage seeded to wheat on all such farms.

Crop year means the period within which a wheat crop is normally seeded and harvested. A crop year shall be designated by reference to the calendar year in which the wheat crop is normally harvested.

Person means an individual, partnership, association, corporation (including private and governmental), estate, or trust, and, wherever applicable, a State, a political subdivision of a State, or any governmental agency.

Landlord or owner means a person who owns lands and rents such land to another person or operates such land.

Tenant means a person other than a sharecropper who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

Sharecropper means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of the proceeds of the crop produced thereon.

Harvesting means any severance of mature wheat.

Harvesting as grain means any severance of mature wheat for the purpose of using the same for grain, whether or not threshed.

County means a political or civil division or local administrative area of a State.

County committee means the group of persons elected within any county to administer the agricultural conservation program in such county.

State committee means the group of persons designated within any State to administer the agricultural conservation program in such State.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops: *Provided, however,* That where any tract or tracts of such farm land vary widely from the remainder of such farm land in productivity, topography, farming practices, or risk of loss, such tract or tracts, in accordance with instructions issued by the Manager, may be considered a separate farm.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or, if there is no dwelling thereon, it shall be regarded as located in the county in which the major portion of the farm is located.

Basic market means the market designated by the Corporation for the computation of the cash equivalent of premiums, deposits, refunds, or indemnities for the area in which the farm is located: *Provided, however,* That if the Corporation finds that the basic market designated in connection with any such computation is inapplicable due to changes in market conditions, the Corporation shall designate another basic market in connection with any other of such computations.

Price differential means the amount per bushel fixed by the Corporation to represent the difference in wheat prices for the applicable basic market and the county in which the farm is located, or the local shipping station for the farm, whichever the Corporation determines is applicable.

Flat wheat means wheat that has no transit privileges.*

CONDITIONS GOVERNING APPLICATIONS FOR INSURANCE, THE INSURANCE CONTRACT, AND THE INSURANCE PERIOD

§ 403.20 *Application for insurance* (a) Application for insurance shall be made upon a form prescribed for such purpose by the Corporation. Any person who has an interest as landlord, owner, tenant, or sharecropper in a wheat crop to be seeded on a farm may apply for insurance to cover his interest in such crop.

(b) An application shall cover the applicant's interest in the wheat crop to be seeded on a farm (except as provided in subsection (d) of this section) if his interest is the same in the wheat to be seeded on all tracts constituting the farm, and if the persons other than the applicant having an interest in the wheat to be seeded are the same with respect to all tracts. The applicant shall file a separate application for each tract or tracts with respect to which the applicant's interest in the wheat to be seeded differs from his interest in the wheat to be seeded on another tract or tracts within the farm. The applicant shall also file a separate application for each tract with respect to which the other person or persons having an interest in the wheat to be seeded on such tract are different from the person or

* §§ 403.1 to 403.106, inclusive, issued under the authority contained in sec. 516 (b) of the Federal Crop Insurance Act, 52 Stat. 77 (1938); 7 United States Code sec. 1516 (b), sup. IV, 1938.

persons having an interest in the wheat to be seeded on the other tract or tracts within the farm.

(c) Where a farm consists of both irrigated and non-irrigated land, the Corporation may require the submission of an application covering the irrigated land and an application covering the non-irrigated land. Where a farm is divided into two or more farms due to differences in productivity, topography, farming practices, or risk of loss, the Corporation may require the submission of applications on all such farms.

(d) An application may be submitted covering only spring wheat to be seeded on a farm where winter wheat has been seeded on acreage other than the acreage to be seeded to spring wheat, but, as provided in Part VI of these regulations, the total production of wheat for the purpose of determining the amount of loss under the insurance contract shall include the production from both winter and spring wheat.

(e) The application must be submitted at the office of the county committee, together with the premium, before the beginning of the seeding of the wheat crop (or the seeding of the spring wheat where an application is submitted in accordance with the provisions of subsection (d) of this section) or the final date established by the Corporation for the submission of applications in the area in which the farm is located, whichever occurs first.*

§ 403.21 *Acceptance of applications by the Corporation.* Acceptance of an application by the county committee shall be acceptance on behalf of the Corporation: *Provided, however,* That the adjusted average yield and the premium rate specified in the application are in accordance with the adjusted average yield and the premium rate approved by the Corporation for the farm covered by such application: and *Provided, further,* That such application is submitted in accordance with the provisions of the application, these regulations and any amendments thereto. Acceptance of the application shall be evidenced by the delivery to the applicant of a copy of the application signed by a member of the county committee.

The right is reserved to reject any application for insurance, or to limit the insured percentage to 50 percent of the adjusted average yield for the farm, in any case where the county committee determines that the risks to be incurred under the insurance contract warrant either such action.*

§ 403.22 *Period of insurance.* Insurance under the insurance contract shall attach at the time the wheat crop is seeded if the premium is paid.

The insurance shall cease with respect to any portion of the insured crop upon threshing (unless combined, field-sacked, and remaining in the field, in which event the insurance shall not cease for 120 hours thereafter) or removal from the farm, but in no event later than noon of the 30th day of September 1941, unless such time is extended in writing by the Corporation. Noon means noon of standard time at the place where the farm is located.*

§ 403.23 *Fraud, misrepresentation, etc.* The entire insurance contract shall be voidable, and the premium paid thereon shall be forfeited, at the election of the Corporation, if the insured has concealed or misrepresented, or conceals or misrepresents, any material fact or circumstance concerning the insurance contract or the subject thereof, or if the interest of the insured in the crop covered hereunder be not truly stated in the application, or if the insured is guilty of any fraud or makes any false statements relating to the insurance contract or the subject thereof, whether before or after a loss, or if the insured shall neglect to use all reasonable means to develop, care for, and save the entire crop covered by the insurance contract, whether before or after damage has occurred.*

§ 403.24 *Modification of insurance contract.* No notice to any county committee or representative of the Corporation or knowledge possessed by any such county committee or representative or by any other person shall be held to effect a waiver or change in any part of the insurance contract or estop the Corporation from asserting any right or power under such contract; nor shall the terms of such contract be waived or changed except as authorized in writing by a duly authorized officer or representative of the Corporation; nor shall any provision or condition of this insurance contract or any forfeiture be held to be waived by any delay or omission by the Corporation in exercising its rights and powers hereunder or by any requirement, act, or proceeding, on the part of the Corporation or of its representatives relating to appraisal or to any examination herein provided for.*

§ 403.25 *Insurance contract voidable unless full compliance.* Failure to give any notice to the Corporation or to furnish proof of loss within the time and in the manner prescribed herein, or failure to comply with any of the terms, conditions, or covenants of the insurance contract, shall render the insurance contract voidable and, at the election of the Corporation, shall constitute a forfeiture of the premium paid.*

TIME AND MANNER OF PAYMENT OF PREMIUMS AND TENDER OF DEPOSITS

§ 403.30 *Time and place of payment of premiums.* Premiums shall be payable at the office of the county committee for the county in which the farm is located. Premiums may be paid either in wheat or the cash equivalent thereof at the option of the insured. Premiums shall be payable at the time the application is taken and in no event shall a premium be accepted after the beginning of the seeding of the wheat crop, except as provided in subsection (d) of section 20, or after the date specified by the Corporation as the closing date for the receipt of applications, whichever occurs first. However, an additional payment supplementing a premium payment may be accepted after seeding and within the time prescribed by the Corporation, (1) in the case of an insurance contract covering the farm for which a premium payment was made on the basis of the wheat allotment or permitted acreage under the 1941 agricultural conservation program and, due to a combination of such farm with another farm or farms to constitute one farm under the 1941 agricultural conservation program, the maximum insurable acreage for such contract is in excess of such allotment or permitted acreage, (2) in the case of a field-rented tract upon which an acreage of wheat has been seeded in excess of the acreage for which premium payment was made and the acreage of wheat seeded on all tracts constituting the farm does not exceed the acreage allotment or permitted acreage for the farm under the 1941 agricultural conservation program, and (3) in the case of an insurance contract based on special practices when the acreages of wheat seeded to special practices differ from the acreages of special practices on which the premium payment was made.*

§ 403.31 *Deposits to be applied toward future premiums.* Any person who submits an application may tender, at such time only, with his premium payment, except where his premium is being paid by means of an advance from the Secretary, a deposit of wheat or cash in an amount not in excess of his premium payment toward the payment of future premiums. The Corporation reserves the right to reject the tender of any deposit.

The acceptance of any deposit by the Corporation shall not obligate the Corporation to insure the interest of the depositor in any future insurance program, and any insurance contract to which such deposit is applied in payment of the premium will be subject to the provisions of the regulations applicable with respect to such insurance contract.

A depositor shall have no title or interest in any wheat (including any wheat deposited) held by the Corporation. The Corporation shall be liable to the depositor only for the cash equivalent of the quantity of wheat credited or to be credited to the depositor's account, such cash equivalent to be determined in accordance with the provisions of sections 32 and 40 of these regulations.*

§ 403.32 *Payment of premium or tender of deposits in cash equivalent.* The payment of premiums in the cash equivalent shall be made in cash, check, money order, or bank draft payable to the Treasurer of the United States, or by means of an advance from the Secretary. The tender of deposits in the cash equivalent shall be made in cash, check, money order, or bank draft payable to

the Treasurer of the United States. All checks and drafts will be accepted subject to collection and premiums or deposits shall not be regarded as paid unless collection is made.

The cash equivalent of any premium or deposit shall be determined by multiplying the number of bushels of wheat of the applicable class and grade constituting the premium or deposit by the price of such wheat at the current basic market designated by the Corporation, less the price differential. The price of such wheat at the current basic market shall be the price, as determined by the Corporation, for the day when the premium is paid or the deposit is made.

The cash equivalent of an additional payment supplementing a premium payment shall be determined by multiplying the number of bushels of wheat of the applicable class and grade constituting such additional payment by the price of such wheat used for the computation of the original premium payment.*

§ 403.33 *Payment of premium or tender of deposits in wheat.* (a) When premiums are paid in wheat, such payments shall be made by the delivery of a negotiable warehouse receipt, or some other instrument acceptable to the Corporation (both hereinafter referred to as "warehouse receipt"), representing the number of bushels of wheat of merchantable quality constituting the current year's premium and representing wheat of the class specified in the application and the grade specified for such class by the Corporation for the current year's premium. Tender of deposits in wheat shall be made in a similar manner. Warehouse receipts shall be accepted only when issued by a warehouse designated by the Corporation. No warehouse receipt will be accepted as a payment of premium or tender of deposit unless it is received at the office of the county committee within the time fixed by the Corporation and unless there are no warehouse charges or other liens outstanding against the wheat represented by the warehouse receipt other than the usual charges for receiving and storage, if any, for a period not in excess of ten days prior to the date the payment or tender was made. Premiums or deposits shall not be regarded as paid unless the warehouse receipts representing wheat tendered in payment of the premium or the deposit are accepted by the Corporation. One warehouse receipt representing wheat may be tendered to cover both the premium and the deposit.

(b) If, for any reason whatsoever, it appears at any time that the transfer of a warehouse receipt, whether received by the Corporation or its agent as payment of premium or deposit, did not convey to the Corporation complete and unencumbered title to the receipt and the wheat represented thereby, except for the usual charges for receiving and storage not in excess of ten days, or if at any time the Corporation's title to such receipt or the wheat represented thereby is questioned by any person, then, unless the question of title to or charges against such wheat is immediately settled without cost to the Corporation, the Corporation shall not be liable for the payment of any indemnity under the insurance contract for which such receipt was tendered as premium and shall not be liable for a deposit or refund because of the tendering of such receipt. Any payment of indemnity or refund of premium made under the insurance contract for which any such receipt was tendered as premium, and any refund of deposit, shall be returned to the Corporation without limiting any other right or remedy of the Corporation. Any charges or cost to the Corporation in connection with such warehouse receipt, or the wheat represented thereby, may be set off against any indemnity which may be or may become due under any insurance contract entered into with the applicant or in which he may have an interest. Settlements necessitated by the transfer of receipts failing to convey complete and unencumbered title to the receipt and the wheat represented thereby shall be on the basis of the cash equivalent applicable on the date when such receipt was tendered to the Corporation.*

§ 403.34 *Disposition of 1940 crop year deposits.* Any amount which is on deposit with the Corporation pursuant to the 1940 Wheat Crop Insurance Regulations, as amended, shall be applied in payment of the premium for any insurance for which the depositor's application is accepted. Any amount of such deposit in excess of the premiums required for any such application shall be refunded to the depositor in accordance with the 1940 Wheat Crop Insurance Regulations, as amended, unless the depositor elects to have such amount redeposited and become a deposit subject to the provisions of these regulations. Any amount of excess premium paid by means of the application of any such deposit shall be refunded in accordance with section 40 of these regulations.*

§ 403.35 *Conversion of cash into deposits of wheat.* Any tender of deposit made in cash will be credited to the depositor's account in terms of the wheat equivalent of such cash at the time the tender of deposit is made and will be deposited on the basis of the class and grade of wheat specified for the payment of the current year's premium. The wheat equivalent of any cash tendered for deposit will be determined on the same basis as that provided in section 32 of these regulations for the determination of the cash equivalent of a deposit.*

§ 403.36 *Application of wheat deposits towards premiums.* A deposit, at the direction of the depositor, will be applied by the Corporation toward the payment of the premium for any insurance for which the depositor's application is accepted. Where the deposit is to be applied toward a premium for an insurance contract covering a farm for which a different price differential is applicable, the depositor may be charged or credited with an amount of wheat, as determined by the Corporation, reflecting the difference between the price differential applicable at the place where the deposit was made and the price differential for the farm for which the application for insurance was made.*

§ 403.37 *Premium earned upon seeding.* Premiums shall be regarded as earned upon the seeding of the wheat crop.*

§ 403.38 *Minimum amount of premium.* The minimum amount of premium for any insurance contract shall be one bushel of wheat.*

REFUND OF PREMIUMS AND DEPOSITS

§ 403.40 *Computation of refunds; time of making refunds.* (a) Any refund of premiums, excess payment, or deposit shall be made only in the cash equivalent of the quantity of wheat to be refunded, less an amount, fixed by the Corporation, to cover storage and handling expenses. In no case shall such deduction exceed one-twentieth of one cent per day per bushel. The period for which such deductions shall be computed shall commence with and include the day following the day on which the premium was paid or the deposit was delivered. Such period shall end with and include the day on which payment of the refund is approved by the Corporation.

(b) No refund of a premium shall be acted upon by the Corporation until the acreage seeded to wheat on the farm covered by the insurance contract has been determined. Except as may otherwise be provided by the Corporation, no claim for refund of a deposit shall be considered prior to the final date fixed by the Corporation for the receipt of applications for the 1942 wheat crop insurance program in the county where the farm in connection with which the deposit was made is located. Nothing in this subsection shall be construed to restrict the Corporation's right to refund any deposit or premium at such earlier date as it may determine.

(c) The cash equivalent of any refund of a deposit shall be determined by multiplying the amount to be refunded in terms of bushels of wheat of the class and grade specified for the payment of the premium for the insurance contract with respect to which the deposit was made by an amount computed by deducting the price differential applicable for the day the deposit was tendered from the applicable basic market price of such wheat at such time, whether or not such deposit was made in wheat or in the cash equivalent thereof.

(d) The cash equivalent of any refund, other than a refund of a deposit, shall be determined by multiplying the amount to be refunded in terms of bushels of wheat of the class and grade specified for the payment of the premium for the insurance contract by an amount computed by deducting the price differential applicable for the day the pre-

mium was paid from the applicable basic market price of such wheat at such time, whether or not such premium was paid in wheat or in the cash equivalent thereof.

(e) Any amount tendered in the payment of the premium in excess of the amount required as the premium for the insurance contract shall be refunded.

(f) No refund shall be made if the amount thereof is less than one bushel.*

§ 403.41 *Assignment or transfer of claims for refunds.* No claim for a refund, or any part or share thereof, or any interest therein, shall be assignable or transferable, notwithstanding any assignment of the insurance contract as security or any transfer of the insurance contract. Refund of any deposit will be made only to the depositor and refund of any other payment will be made only to the applicant or to the Secretary if the premium has been paid by means of an advance and the Secretary has not been reimbursed for the amount of the advance.*

§ 403.42 *Death, incompetency, or disappearance of person entitled to refund; change of fiduciaries.* In any case where a person who is entitled to a refund of premium or deposit has died, has become incompetent, has disappeared leaving his whereabouts unknown for a period of 150 days from the date the Corporation determines that a refund is due, or has ceased to act as a fiduciary, such refund will be made to his legal representative or successor. If no such legal representative or successor has been appointed, or is otherwise legally qualified, and the quantity of wheat to be refunded before deduction of storage and handling expenses is less than 500 bushels, such refund may be made to any one or more of the persons beneficially entitled to share in such refund on behalf of all the persons so entitled upon proof of the facts satisfactory to the Corporation. The determination of the Corporation as to the existence or nonexistence of a circumstance in the event of which payment of a refund may be made to a person other than the person who paid the premium or made the deposit, as the case may be, shall be final and conclusive and payment in accordance with such determination shall constitute a complete discharge of the Corporation's obligation with respect to the refund.*

TOTAL INSURED PRODUCTION

§ 403.50 *Total insured production.* (a) The total insured production for the insurance contract, except where special practices are accepted as the basis for insurance, shall be the product of the number of acres of the wheat crop seeded not in excess of the maximum insurable acreage, the adjusted average yield, the insured percentage, and the insured's interest in the crop: *Provided, however,* That where the amount of premium paid is less than the premium for the above-described acreage, the total insured production shall be adjusted in proportion to the amount by which the amount of premium paid is less than the premium for the above-described acreage.

(b) If special practices are used as the basis for insurance, the total insured production for the insurance contract shall be the sum of the totals of the insured production computed separately for each such practice, and the insured production for each such practice shall be the product of the acreage seeded for such practice, the adjusted average yield, the insured percentage and the insured's interest in the crop: *Provided, however,* That if the total acreage seeded for all such practices is in excess of the maximum insurable acreage, the number of acres used in computing the total insured production for each practice shall be the same percentage of the acreage seeded for each such practice as the maximum insurable acreage is of the total acreage seeded for all such practices, and: *Provided, further,* That where the amount of premium paid is less than the premium required, for the total acreage seeded for all such practices, the total insured production for the insurance shall be adjusted in proportion to the amount by which the amount of premium paid is less than the amount of the premium required for the acreage seeded to all such practices.*

DETERMINATION OF LOSS

§ 403.60 *Notice during growing season.* (a) Immediately after the insured crop, or any portion thereof, has been transferred to another person, notice in writing thereof shall be given, on a form provided by the Corporation for that purpose, to the Corporation at the office of the county committee for the county in which the farm is located.

(b) Immediately after material damage to the insured crop, or any portion thereof, the insured, if he wishes to dispose of such crop, or portion thereof, or to make some use of the land seeded to such crop, or portion thereof, other than for the production of wheat, shall give notice thereof, in writing, on a form provided by the Corporation for that purpose, to the Corporation at the office of the county committee for the county in which the farm is located containing such information as may be reasonably required regarding the damaged crop. The Corporation may make an investigation of the insured crop where it appears that the reported damage may be of such a nature as to result in a loss under the insurance contract. The Corporation shall have a reasonable period after receipt of such notice in which to investigate the condition of the insured crop and appraise the yield of such crop, or portion thereof. Proper measures shall be taken to protect the crop from further damage until threshing, unless the Corporation gives its permission to devote the acreage seeded to wheat to some other use. No acreage seeded to wheat shall be considered as put to another use as long as there is any wheat on such acreage remaining for harvest. In no event shall there be any abandonment of any crop or portion thereof to the Corporation.*

§ 403.61 *Notice before harvest, removal, transfer, or other use.* Notwithstanding any other notice given as required by the insurance contract, if it is probable that there will be a loss under such insurance contract, notice in writing of the intention to harvest, remove, transfer, or make other use of the insured crop, or any portion thereof, shall be given to the Corporation, at the office of the county committee for the county in which the farm is located, in time to give the Corporation reasonable opportunity to inspect the insured crop before such harvest, removal, transfer, or other use.*

§ 403.62 *Time of loss.* Loss shall be deemed to have occurred at the time of the completion of threshing of the insured crop (unless combined, field-sacked, and remaining in the field, in which event the loss shall be deemed to have occurred upon the expiration of the insurance period) or noon of the 30th day of September, 1941, whichever occurs first, unless there is a total or substantially total destruction of the entire crop at an earlier time, in which event the loss shall be deemed to have occurred at the time of such total or substantially total destruction. The wheat crop shall be deemed to have been substantially totally destroyed if the Corporation finds that it has been so badly damaged that the farmers generally in the area where the farm is located would not further care for the crop for wheat production.*

§ 403.63 *Proof of loss.* If a loss is claimed, the insured shall submit to the Corporation at the office of the county committee for the county in which the farm is located, on a form provided by the Corporation for that purpose, a statement in proof of loss containing such information as may reasonably be required regarding the insured crop. Such statement in proof of loss shall be submitted not later than thirty days after threshing, but in no event later than October 15, 1941, unless such time is extended in writing by the Corporation. It shall be a condition precedent to any liability under the insurance contract that the insured establish that any loss for which claim is made has been directly caused by a hazard insured against by the insurance contract during the term of the contract, and that the insured further establish that such loss has not arisen from or been caused by, either directly or indirectly, any of the hazards not insured against by the insurance contract.*

§ 403.64 *Amount of loss.* The amount of loss for which indemnity will be paid under this insurance contract shall be the amount by which the total production of wheat on the farm, or the portion of the farm covered by the insurance contract if the insurance contract does not cover the entire farm, multiplied by the percentage representing the insured's in-

terest in the insured crop, is less than the total insured production for the insurance contract. Such total production, for the purpose of determining the amount of loss, shall include:

1. Wheat produced from any acreage, except succotash, volunteer or self-seeded wheat, and true type winter wheat seeded in the spring, which was threshed;

2. Wheat production appraised from any acreage, except succotash, volunteer or self-seeded wheat, and true type winter wheat seeded in the spring, which was not threshed, but which was otherwise harvested as grain;

3. Wheat production appraised from any acreage seeded with the intention of harvesting as grain, which was not harvested as grain, was not threshed, but which, after maturity, was left standing in the field;

4. Wheat production appraised from any acreage, seeded with the intention of harvesting as grain, which was substantially totally destroyed and put to another use with the consent of the Corporation;

5. For acreage seeded with the intention of harvesting as grain which was not reseeded in areas and under circumstances where it is customary to reseed, a number of bushels equal to the quantity of wheat by which the actual production per acre is less than the product of (1) such acreage, (2) the adjusted average yield, and (3) the insured percentage.

6. For acreage seeded with the intention of harvesting as grain for which there was a complete failure in yield due to causes not insured against, or because the land or crop was put to some other land use or crop use without the consent of the Corporation, a number of bushels equal to the appraised reduction in production due to such causes or due to the land or crop being put to another use without consent of the Corporation. In no event shall such appraised reduction in production be less than the product of (1) such acreage, (2) the adjusted average yield, and (3) the insured percentage.

7. For acreage seeded with the intention of harvesting as grain which has been damaged by reason of causes not insured against, or which has been damaged or destroyed by reason of causes insured against and causes not insured against, a number of bushels equal to the appraised reduction in production due to causes not insured against;

8. For acreage seeded with the intention of harvesting as grain with respect to which the insured's interest is terminated by voluntary transfer or process of law before the crop is harvested, except as otherwise provided in section 81 of these regulations, a number of bushels equal to (1) the product of such acreage, the adjusted average yield, and the insured percentage, or (2) the actual production from such acreage, whichever is higher.

9. For the acreage seeded with the intention of harvesting as grain on land of poorer average quality for the production of wheat than the average quality of the land seeded to wheat on the farm during the base period, where such seeding is not the result of a regularly established rotation, a number of bushels equal to the product of (1) such acreage, (2) the insured percentage, and (3) a quantity of wheat representing the difference between the adjusted average yield and the yield per acre appraised on the basis of the quality of land so seeded. This adjustment shall be made notwithstanding that damage or total destruction of the insured crop occurs by reason of any other cause.

10. For the acreage seeded with the intention of harvesting as grain for which the risk to the Corporation has been increased by reason of the seeding of a different class of wheat than the class of wheat considered in establishing the adjusted average yield, a number of bushels equal to the product of (1) such acreage, (2) the insured percentage, and (3) a quantity of wheat representing the difference between the adjusted average yield and the yield per acre appraised on the basis of the class of wheat seeded. This adjustment shall be made notwithstanding that damage or total destruction of the insured crop occurs by reason of any other cause.

11. For the acreage seeded with the intention of harvesting as grain for which the risk to the Corporation has been increased by reason of following different fertilizer or farming practices than those considered in establishing the adjusted average yield, a number of bushels equal to the product of (1) such acreage, (2) the insured percentage, and (3) a quantity of wheat representing the difference between the adjusted average yield and the yield per acre appraised on the basis of the fertilizer or farming practices followed. This adjustment shall be made notwithstanding that damage or total destruction of the insured crop occurs by reason of any other cause.

12. For the acreage seeded with the intention of harvesting as grain, which is insured on the basis of irrigation (except where irrigated and non-irrigated yields have been established for the farm) and on which the necessary irrigation water was not applied or was not applied at the proper time or in the proper manner, a number of bushels equal to the appraised reduction in production due to any such cause. This adjustment shall be made notwithstanding that damage or total destruction of the insured crop occurs by reason of any other cause. No adjustment shall be made if no water was available for irrigation purposes on the farm because of natural causes or if the amount of irrigation water available was insufficient, due to natural causes, for all the irrigated crops and the amount of water available was distributed among the irrigated crops so that as large a proportion of the acreage in the wheat crop was protected by irrigation water as the acreage of other crops under irrigation on the farm.*

§ 403.65 *Records, access to farm.* The insured shall keep, or cause to be kept, records of the harvesting, threshing, storage, shipment, sale, or other disposition, of all wheat produced on the farm, which will be made available for examination by the Corporation, and he shall cooperate with the county committee in the establishment of data with respect to the production of wheat on the farm. As often as may reasonably be required, any person or persons designated by the Corporation will have access to the farm.*

TIME AND MANNER OF PAYMENT OF INDEMNITY

§ 403.70 *When indemnity payable.* The amount of loss for which the Corporation may be liable under any insurance contract shall be payable within 30 days after satisfactory proof of loss is approved by the Corporation. Notwithstanding the fact that payment of any indemnity is delayed for any reason beyond the time specified, the Corporation shall not be liable for interest or damages on account of such delay.*

§ 403.71 *Manner of payment of indemnity.* The indemnity under any insurance contract for which the Corporation may be liable shall be paid in wheat or the cash equivalent thereof. The insured may indicate in his statement in proof of loss whether he wishes the indemnity to be paid in wheat, in cash equivalent by immediate settlement, or in cash equivalent by deferred settlement, but the Corporation reserves the right to make payment in a form other than that indicated by the insured.*

§ 403.72 *Payment of indemnity in cash.* (a) Where an indemnity is paid in cash equivalent by immediate settlement, the amount thereof shall be computed by multiplying the amount of loss, in terms of bushels of wheat, of the class and grade specified for the payment of the premium for the insurance contract, by the price of such wheat at the current basic market, as determined by the Corporation, less the amount per bushel fixed by the Corporation representing the price differential. The current basic market price for any class or grade of wheat at such basic market shall be the basic market price, determined by the Corporation, for the day when the claim for indemnity is approved for payment by the Corporation.

(b) Where an indemnity is paid in the cash equivalent by deferred settlement, a notice of the approval of the statement in proof of loss will be sent to the insured indicating the number of bushels of indemnity due and giving notice of the date of approval. The insured, on a form prescribed by the Corporation, at any time

within 90 days of this date, may give notice to the Corporation that he desires his cash equivalent to be established. The cash equivalent shall be determined in the manner provided in subsection (a) of this section except that (1) the basic market price to be used shall be the basic market price, as determined by the Corporation, on the date that such notification is received in the appropriate branch office of the Corporation or the date on which the 90-day period expires, whichever is earlier, and (2) in computing the cash equivalent, a deduction shall be made, in addition to the deduction of the price differential, of an amount per bushel, based on the length of time elapsing between the date of approval of the statement in proof of loss and the date the cash equivalent is established, computed at the following rates:

	Per bushel
1 to 14 days	$0.00
15 to 29 days	0.005
30 to 44 days	0.01
45 to 59 days	0.015
60 to 74 days	0.02
75 to 90 days	0.025

The period for computing this charge shall begin with and include the day following the date on which the statement in proof of loss is approved by the Corporation and shall end with and include the date on which notification by the insured is received in the branch office or the date on which the 90-day period expires, whichever is earlier: *Provided, however,* That if any of these dates fall on other than a business day, the date of the next following business day shall be used. The right to notify the Corporation of the date to be used in establishing the cash equivalent shall not be assignable and the provisions of sections 84, 86, 87, and 89 of these regulations shall be applicable to the exercise of this right.*

§ 403.73 *Payment of indemnity in wheat.* Where an indemnity is paid in wheat, payment shall be in the form of a warehouse receipt representing flat wheat of the number of bushels approved by the Corporation as the amount of loss and of the basic class and grade specified for the payment of the premium for the insurance contract, or its equivalent in wheat of any other class, grade, or quality, as determined by the Corporation.*

§ 403.74 *Adjustments in connection with indemnity payments.* Where an indemnity has been paid under the insurance contract and an adjustment of such indemnity is made, such adjustment shall be made on the basis of the cash equivalent applicable to the indemnity paid, whether or not such indemnity was paid in wheat or in the cash equivalent thereof.*

CHANGE OF INSURED'S INTEREST

§ 403.80 *Termination of all or part of insured's interest in the entire insured crop.* (a) If, at the time of loss, the insured's interest in the crop has been terminated for any reason, no indemnity shall be payable under the insurance contract except as provided otherwise in this part VIII.

(b) If, at the time of loss, the insured's interest in the crop is less than the interest specified in his application for insurance, due to a transfer of a *portion of his interest in the entire crop* to another person, any indemnity payable to the insured shall be computed on the basis of his interest in the crop at the time of loss and no indemnity shall be paid to the person to whom such portion of the interest stated in the application has been transferred, unless there has been a transfer in part of the insurance contract in accordance with section 81 of these regulations.

(c) If, *prior to the beginning of the seeding of the wheat crop,* the insured's interest in the crop becomes less than the interest stated in his application for insurance, due to a transfer of a portion of his interest in the entire crop to another person, the insurance contract shall be effective only with respect to the interest of the insured at the time of the beginning of the seeding of the wheat crop, unless, prior to the beginning of the seeding of the wheat crop, the insured, with the approval of the Corporation, transfers the insurance contract in part in accordance with section 81 of these regulations.

(d) The insured's interest shall not be deemed to have been terminated by virtue of the imposition of a lien, whether by voluntary action or process of law, upon the insured crop, or by the appointment of a receiver or moratorium officer with respect to such crop, the commencement of bankruptcy proceedings, or proceedings for the foreclosure of a lien. The insured shall be deemed to have an interest in the crop so long as he has any right of redemption therein.*

§ 403.81 *Transfer of the insured's contract in connection with transfer of the crop or portion thereof.* (a) An insurance contract may be transferred, with the approval of the Corporation, in connection with the transfer by the insured of *all his interest in the insured crop* before the time of loss. An insurance contract may also be transferred in part, with the approval of the Corporation, in connection with a transfer by the insured of a *part of his interest in the insured crop* prior to the time of loss. Any such transfer of the insurance contract must be submitted to the county committee prior to the time of loss and shall be made in the manner prescribed by the Corporation. The Corporation shall, in no case, be bound to accept notice of any transfer of the insurance contract, and nothing herein contained shall give any right against the Corporation to any person other than the insured except to a transferee approved by the Corporation. Where the premium for such contract was paid by means of a request for advance from the Secretary, and such advance has not been repaid, the Corporation may require that the transferee assume the obligation to repay such advance to the extent of the premium attributable to the interest transferred.

(b) If the insured, *prior to the beginning of the seeding of the wheat crop,* has an interest in less acreage to be seeded to wheat than the acreage covered by his application, the insurance contract will be revised, with the approval of the Corporation, to cover only the acreage in which the insured has an interest. If the insured makes a voluntary transfer of his entire interest in a portion of the wheat acreage to another person, *subsequent to the beginning of the seeding of the wheat crop,* and such other person complies with the provisions of the insurance contract as applied to such portion of the crop, the amount of loss shall be determined as if such transfer did not take place, and the Corporation may pay the indemnity to the insured on behalf of the insured and such other person having an interest in the crop or may issue a joint check to the insured and such other person.*

§ 403.82 *Collateral assignment of insurance contract.* An insurance contract may be assigned as collateral security for a current loan, current advances to assist in the making of a crop, the amount of the current year's rental due under a leasing agreement with respect to the farm upon which the insured crop is or will be seeded, or the amount of the current annual installment due under a purchase, mortgage, or trust agreement covering the purchase of the farm upon which the insured crop is or will be seeded and an additional amount of any delinquency which may be due under the purchase, mortgage, or trust agreement of not to exceed the amount of the current annual installment including interest and taxes. Such assignment shall be made by the execution of a form prescribed by the Corporation, and, upon approval thereof by the Corporation, the interests of the assignee will be recognized in the event of the payment of indemnity under the insurance contract to the extent of the unpaid balance of the amount (including interest and other charges) for which such assignment was made as collateral security: *Provided, however,* That (1) where any person has paid the premium for any insurance contract by an advance from the Secretary, any indemnity payable under any insurance contract of such person shall be subject to deduction for payment to the Secretary for the amount advanced which is owing at the time the indemnity is payable under any such contract; (2) the Corporation, in payment of the indemnity, may issue a check payable jointly to all persons entitled thereto and that such payment shall constitute a complete discharge of the Corporation's obligation with respect

to such loss under the insurance contract; and (3) payment of any indemnity will be subject to all conditions and provisions of the insurance contract. The Corporation's approval of an assignment shall not create in the assignee any right other than that derived from the assignor. Only one such assignment will be recognized in connection with the insurance contract but if an assignment is released, a new assignment of the contract may be made.*

§ 403.83 *Limitations on transfer and assignment.* Except as is otherwise provided in sections 81 and 82 of these regulations, neither the insurance contract nor any claim for indemnity thereunder, or any part or share thereof, or any interest therein, shall be transferable; nor shall any pledge of the contract be recognized. Notwithstanding any assignment, power of attorney, order, or other authority for receiving payment of any claim for indemnity under the insurance contract, any indemnity payable shall be made only to persons entitled to the benefit of the insurance contract as provided in the application and these regulations. The Corporation shall in no case be bound to accept notice of any transfer or assignment of the insurance contract, and nothing therein contained shall give any right against the Corporation to any person other than the insured except to a transferee or assignee approved by the Corporation.*

§ 403.84 *Death, incompetency, or disappearance of the insured*—(a) *Death.* (1) Before loss with administration: If the insured dies before the time of loss, and his interest in the crop forms part of his estate, payment of any indemnity will be made to the duly appointed representative of his estate.

(2) After loss with administration: If the insured dies after the time of loss, payment of any indemnity on account of such loss will be made to the duly appointed representative of his estate.

(3) Before loss without administration: If the insured dies before the time of loss and no legal representative of his estate is appointed or is otherwise legally qualified, payment of any indemnity may be made after the expiration of 30 days from the date of death to any one or more of the persons beneficially entitled to share in the insured's interest in the crop in behalf of all the persons so entitled. Payment will be made under the provisions of this subsection only if the amount of the indemity is less than 500 bushels and upon the submission of proof satisfactory to the Corporation that the insured's interest in the crop is part of his estate.

(4) After loss without administration: If the insured dies after the time of loss and no legal representative of his estate is appointed or is otherwise legally qualified, then, subject to the conditions outlined in subsection (a) (3) of this section 84, payment of any indemnity on account of such loss may be made after expiration of 30 days from the date of death to any one or more of the persons beneficially entitled to share in the insured's interest in the crop in behalf of all the persons so entitled.

(b) *Incompetency.* (1) Before loss: If, before the time of loss, the insured is judicially declared incompetent to manage his affairs, or his incompetency is otherwise established to the satisfaction of the Corporation, and his interest in the crop remains part of his estate, payment of any indemnity will be made to the guardian, or other legally constituted representative of his estate appointed by a court of competent jurisdiction, or who is otherwise legally qualified. In such case if no guardian or other legal representative of the insured's estate is appointed, or is otherwise legally qualified and the amount of the indemnity is less than 500 bushels, payment of any indemnity may be made to a member of his family standing in the position of a voluntary guardian upon presentation of proof satisfactory to the Corporation that the indemnity is needed and is to be used for the purchase of necessities for the incompetent, or for his wife or minor children or other persons dependent upon him for support. If the insured's interest in the crop is terminated by reason of his incompetency, any relative by blood or connection by marriage of the insured who succeeds to such interest, but no other person, shall be entitled to the benefit of the insurance contract.

(2) After loss: If, after the time of loss, the insured is judicially declared incompetent to manage his affairs, or his incompetency is otherwise established to the satisfaction of the Corporation, payment of any indemnity will be made to the guardian or other legally constituted representative of his estate appointed by a court of competent jurisdiction or who is otherwise legally qualified. If there be no such guardian or other legal representative, and the amount of the indemnity is less than 500 bushels, payment of any indemnity may be made to a member of the insured's family standing in a position of voluntary guardian upon presentation of proof satisfactory to the Corporation that the indemnity is needed and is to be used for the purchase of necessities for the incompetent, or for his wife or minor children or other persons dependent upon him for support.

(c) *Disappearance.* (1) Before loss: If, before the time of loss, the insured disappears and such insured's interest in the crop covered by the insurance contract is not terminated thereby, any indemnity payable will be paid to the conservator or other legally qualified representative of his estate. If there be no such conservator or other legal representative, and the amount of the indemnity is less than 500 bushels, payment of the indemnity may be made to any member of the insured's family upon the presentation of proof satisfactory to the Corporation that the proceeds of such indemnity are needed and are to be used for the purchase of necessities for the insured's wife or minor children or other persons dependent upon him for support. If the insured's interest in the crop is terminated by reason of his disappearance, any relative by blood or connection by marriage of the insured who succeeds to his interest in the crop, but no other person, shall be entitled to the benefit of the insurance contract.

(2) After loss: If, after the time of loss, the insured disappears, payment of any indemnity will be made to the conservator or other legally qualified representative of his estate, but if there be no such conservator or other legal representative and the amount of the indemnity is less than 500 bushels, payment of the indemnity may be made to a member of the insured's family upon presentation of proof satisfactory to the Corporation that the proceeds of such indemnity are needed and are to be used for the purchase of necessities for the insured's wife or minor children or other persons dependent upon him for support.

(3) Definition of disappearance: An insured shall be deemed to have disappeared within the meaning of this section if he leaves the farm covered by the insurance contract and his whereabouts have been unknown for a period of 150 days.

(d) *Indemnity payment amounting to 500 bushels or more.* (1) If the insured dies, become incompetent or disappears and his interest in the crop remains part of his estate, payment of any indemnity amounting to 500 bushels or more will be made only to his legal representative.

§ 403.85 *Diverse interest.* Except as is otherwise provided in sections 80, 81, 82, and 87 of these regulations, if at the time of loss it appears that one or more persons have an interest with the insured in the percentage of the crop covered by the insurance contract, or that the insured has contracted to sell his interest in the insured crop or any portion thereof to another person or persons, or has contracted to sell the farm covered by the insurance contract, or any portion thereof, to such other person or persons but the sale has not been completed, such other person or persons, if and insofar as their interests in the crop are not otherwise insured by them or on their behalf against such loss, shall be entitled to the benefit of the insurance contract as their interests may appear. However, the loss may be adjusted with the insured, and payment of any indemnity may be made to the insured in behalf of all persons interested in such crop, whether or not the insured has been authorized to receive such payment by such other persons, and such payment shall constitute a complete discharge of the Corporation's obligation with respect to such loss under the insurance contract.*

§ 403.86 *Fiduciaries.* Any indemnity payable under an insurance contract entered into in the name of a fiduciary

who is no longer acting in such capacity at the time for the payment of indemnity will be paid to the succeeding fiduciary upon appropriate application and proof satisfactory to the Corporation of his incumbency. In the event that there is no succeeding fiduciary, payment of indemnity shall be made to the persons beneficially entitled to the interest in the insured crop to the extent of their respective interests upon proper application and proof of the facts: *Provided, however,* That the loss may be adjusted with any one or more of the persons so entitled, and payment may be made to such person or persons in behalf of all the persons so entitled, whether or not the person to whom payment is made has been authorized to receive such payment by the other persons so entitled.*

§ 403.87 *Creditors.* An interest existing by virtue of a debt, lien, mortgage, garnishment, levy, execution, bankruptcy, or any other legal process shall not be considered an interest in an insured crop within the meaning of these regulations.

Any indemnity payable under an insurance contract shall be paid to the insured, or to such other person as may be entitled to the benefits of the insurance contract under the provisions of these regulations, notwithstanding any attachment, garnishment, receivership, trustee process, judgment, levy, execution lien, mortgage, foreclosure, order, decree, or similar process of law, equity, or bankruptcy directed against the insured or such other person, or against any indemnity alleged to be due to such person, nor shall the Corporation or any officer, employee, or representative thereof be a proper party to any suit or action with reference to such indemnity or the proceeds thereof nor be bound by any judgment, order, or decree rendered or entered therein. No officer, agent, or employee of the Corporation shall pay, or cause to be paid, to any person other than the insured or other person entitled to the benefits of the insurance contract, any indemnity payable in accordance with the provisions of the insurance contract because of any such process, order, or decree. Nothing herein contained shall excuse any person entitled to the benefits of the insurance contract from full compliance with, or performance of, any lawful judgment, order, or decree with respect to the disposition of any sums paid thereunder as an indemnity.*

§ 403.88 *Determination of person to whom indemnity shall be paid.* In any case where the insured has died, has become incompetent, has disappeared, or has ceased to act as a fiduciary, payment in accordance with the provisions of these regulations will be made only after the facts have been established to the satisfaction of the Corporation. The determination of the Corporation as to the existence or non-existence of a circumstance in the event of which payment may be made to a person other than the named insured and of the person to whom such payment shall be made shall be final and conclusive. Payment of any indemnity in accordance with an adjustment made with such person shall constitute a complete discharge of the Corporation's obligation with respect to the loss for which such indemnity is paid and shall be a bar to recovery by any other person.*

§ 403.89 *Payment, conditioned upon compliance with provisions of the insurance contract.* Payment of any indemnity, whether to the applicant or any other person determined by the Corporation to be entitled to such indemnity in accordance with the provisions of these regulations, will be made only upon full compliance with all the provisions of the contract, including the warranties and provisions relating to notice and proof of loss.*

ADVANCES BY THE SECRETARY

§ 403.90 *Payment of premium by means of advances.* Premiums may be paid by means of advances from the Secretary under the provisions of "An Act to amend section 12 of the Soil Conservation and Domestic Allotment Act, as amended, by authorizing advances for crop insurance," approved March 25, 1939. The cash equivalent of any such premium shall be determined in the manner provided for in part III of these regulations and the date for the determination of such cash equivalent shall be the date upon which the request for such advance is made. Requests for advances from the Secretary for the payment of premiums on behalf of applicants participating or agreeing to participate in the 1941 agricultural conservation program shall be made at the time the application is submitted to the Corporation.*

§ 403.91 *Refund of payments made by means of advances.* Refund of any payment made to the Corporation by means of an advance by the Secretary shall be made to the Secretary, unless, (1) the Secretary has recovered the entire amount advanced, in which case the refund will be made to the insured, or, (2) the Secretary has recovered a portion of the advance, in which case the amount of the refund necessary to reimburse the Secretary for the unrecovered amount advanced will be made to the Secretary and the remainder to the insured. The amount of any such refund shall be determined in the manner provided in part IV of these regulations.*

§ 403.92 *Deductions from indemnities to reimburse Secretary.* The Corporation may deduct and pay to the Secretary from the indemnity payable under any insurance contract to a person who has secured an advance from the Secretary for payment of the premium on any insurance contract, including any contract with respect to a previous crop year, the amount necessary in order that the Secretary may be reimbursed for the entire amount advanced.*

MISCELLANEOUS

§ 403.100 *Gender and plural meaning of terms.* Any term used in the masculine or in the singular shall also be construed or applied in the feminine or neuter gender, or in the plural person, wherever the context or application of such term so requires.*

§ 403.101 *Fractional units in acres and yields.* Fractions of yields per acre and loss costs shall be rounded to the nearest tenth of a bushel. Fractions of premium rates shall be rounded to the nearest hundredth of a bushel. Fractions of bushels, other than yields per acre, loss costs, and premium rates, shall be rounded to the nearest bushel. Fractions of acres representing total acres of wheat shall be rounded to the nearest tenth of an acre. Computations shall be carried to one digit beyond the digit that is to be rounded. If the extra digit computed is 1, 2, 3, or 4, the rounding shall be downward. If the extra digit computed is 6, 7, 8, or 9, the rounding shall be upward. If the extra digit computed is 5, the computation shall be carried to another digit. If the two extra digits are 50, the rounding shall be downward, and if the two extra digits are 51 or any higher figure, the rounding shall be upward.*

§ 403.102 *Other insurance.* If the insured has or acquires any other "all-risk" insurance against substantially all the risks that are insured against under the insurance contract on the crop or portion thereof covered in whole or in part by such insurance contract, whether valid or not, or whether collectible or not, the liability of the Corporation shall not be greater than its share would be if the amount of its obligation were divided equally between the Corporation and such other insurer or insurers.*

§ 403.103 *Subrogation.* The Corporation may require from the insured an assignment of all rights of recovery against any party for loss or damage to the extent that payment therefor is made by the Corporation, and the insured shall execute all papers required and shall do everything that may be necessary to secure such rights.*

§ 403.104 *Suit.* No suit or action shall be brought to enforce any claim for loss under the insurance contract unless all the requirements of such contract shall have been complied with.*

§ 403.105 *Restriction on purchase and sale of wheat.* Insofar as practicable, the Corporation shall purchase wheat only at the rate and to a total amount equal to the payment of premiums in cash by farmers or to replace promptly wheat sold to prevent deterioration; and shall sell wheat only to the extent necessary to cover payments of indemnities and to prevent deterioration: *Provided, however,* That nothing in this section shall prevent prompt offset purchases and sales of wheat for convenience in handling.*

§ 403.106 *Review of determinations of county committee.* All determinations

by county committees shall be subject to review and approval or revision by duly authorized representatives of the Corporation.*

Adopted by the Board of Directors on May 14, 1940.

[SEAL] R. M. EVANS,
Chairman.

Approved, June 14, 1940.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-2437; Filed, June 15, 1940; 11:54 a. m.]

[ACP-99, Rev.]

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 715—REGULATIONS PERTAINING TO THE MAKING OF ADVANCES TO PERSONS TO ENABLE THEM TO OBTAIN INSURANCE FROM THE FEDERAL CROP INSURANCE CORPORATION

By virtue of the authority vested in the Secretary of Agriculture by the Act entitled, "An Act to amend section 12 of the Soil Conservation and Domestic Allotment Act, as amended," approved March 25, 1939, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish and give public notice of the following regulations covering the making of advances to persons for the purpose of assisting them to insure their crops with the Federal Crop Insurance Corporation, which amend and supersede the regulations entitled, "Amended Regulations Pertaining to the Making of Advances to Persons to Enable Them to Obtain Insurance From the Federal Crop Insurance Corporation," approved and issued by the Secretary of Agriculture under the date of August 14, 1939, as supplemented.[1] These regulations are to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said provisions of law.

Done at Washington, D. C., this 14th day of June 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

PART 715—AMENDED REGULATIONS PERTAINING TO THE MAKING OF ADVANCES TO PERSONS TO ENABLE THEM TO OBTAIN INSURANCE FROM THE FEDERAL CROP INSURANCE CORPORATION

§ 715.101 *Definitions.* As used herein and in all forms and documents relating to the making of advances to persons to enable them to obtain insurance from the Federal Crop Insurance Corporation (hereinafter referred to as an advance), unless the context or subject matter otherwise requires, the terms:

(a) Secretary, State committee, county committee and person shall have the meanings assigned to them in the Crop Insurance Regulations issued for the crop year with respect to which a person applies for insurance with the Federal Crop Insurance Corporation.

(b) The Corporation means the Federal Crop Insurance Corporation.

§ 715.102 *Eligibility for advance.* In order to be eligible to request an advance, a person, at the time of making such request,

(a) must file, or have previously filed, with the county committee, the application for crop insurance to which the request for advance relates;

(b) must be participating, or agree to participate, in the Agricultural Conservation Program with respect to the crop year to which the application for insurance relates, to such an extent that the estimated payment to be earned under such program, together with the estimated payment under the Parity Payment Program, if any, with respect to such crop year, less

(1) the pro rata deduction for county association expenses;

(2) grants in aid furnished in connection with such conservation program;

(3) the amount of such conservation payment assigned; and

(4) the sum of such person's indebtedness to the Agricultural Adjustment Administration and to the various agencies and departments of the Federal Government as set forth in the Order Governing Set-Offs revised by the Secretary of Agriculture January 31, 1940, or any amendment thereto or succeeding order, which will not be offset by deductions from payments made to such person for crop years prior to the crop year to which the application for insurance relates,

is at least equal to the amount for which the request for advance is made; this amount of payment to be known as "net payment".

§ 715.103 *Request for advance.* An advance will be made only upon request therefor submitted through the county office on a prescribed form. A request form shall be filed for each application for insurance for which an advance is desired.

§ 715.104 *Manner of payment.* The amount of advance approved by the appropriate State Office of the Agricultural Adjustment Administration will be remitted by the Secretary directly to the Corporation. In the event the amount of the advance so remitted to the Corporation is in excess of the amount of premium due, the excess will be returned by the Corporation to the Secretary and the applicant's account credited with such amount: *Provided, however,* That, if the Secretary has been reimbursed for the amount of the advance, the excess will be returned to the applicant, and, if the Secretary has been reimbursed for a portion of the amount of the advance, the amount of excess needed to reimburse the Secretary for the entire amount of advance will be returned to the Secretary for the applicant's account and the remainder will be returned to the applicant.

§ 715.105 *Forms and instructions.* The Agricultural Adjustment Administration shall prescribe such forms and issue such instructions as may be necessary to carry out these regulations.

§ 715.106 *Signature and authorization.* The provisions of ACP-16, "Instructions on Signatures and Authorizations", are hereby made a part of these regulations.

§ 715.107 *Repayment of amount advanced.* The amount advanced for the payment of crop insurance premium shall be deducted from the agricultural conservation payment, or parity payment if any, to which the person obtaining the advance may become entitled with respect to the crop year to which the application for insurance relates or with respect to any subsequent crop year: *Provided, however,* That, if the person conducts his farming operations, during the crop year to which the application for insurance relates, in a manner which would prevent him from earning the amount advanced, it may be set off from any payment under any program administered by the United States Department of Agriculture earned by him. Notwithstanding the foregoing provisions for deduction from payments, the amount advanced may be deducted from any indemnity payable to such person under any insurance contract of such person with the Corporation. If the amount advanced is not recovered by deduction from payments and indemnities, the person obtaining the advance shall repay the amount advanced, or any unrecovered portion thereof, upon notice to him by the Secretary or his agent. If, however, as a result of a transfer, by the person who obtained the advance, of his interest in all or a part of the wheat crop covered by a crop insurance contract another person becomes entitled to receive a 1941 parity or conservation payment which, except for such transfer of interest, would have been payable to the person who obtained the advance, the amount of the advance then unrecovered from the transferor, or the portion of such amount equal to the portion of the wheat crop which was transferred, as the case may be, shall be set off against such payment irrespective of whether the transferee acquired an interest in the insurance contract, provided, however, that any remaining balance due the United States shall remain an obligation only of the transferor who obtained the advance, unless the transferee has assumed the obligation of repaying the advance by becoming a party to the insurance contract. The authorization for deduction from payments and indemnities shall apply to payments and indemnities due the person who obtained

[1] 4 F.R. 3598, 3956.

the advance, or his transferee, which may be made to his successor in interest because of death, incompetency, insolvency or bankruptcy.

[F. R. Doc. 40-2436; Filed, June 15, 1940; 11:53 a. m.]

TITLE 10—ARMY: WAR DEPARTMENT

CHAPTER VIII—PROCUREMENT AND DISPOSAL OF EQUIPMENT AND SUPPLIES

PART 83—SALE OF SURPLUS OR UNSERVICEABLE PROPERTY

Section 83.3, *Arms, ammunition, and implements of war*, (a), (b), (c), and (d) are rescinded. [Proc. Cir. 15, June 10, 1940]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 40-2444; Filed, June 15, 1940; 12:09 p. m.]

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS AUTHORITY

[Amendment 58, Civil Air Regulations]

PROVIDING FOR A NEW METHOD OF CERTIFICATION AND RATING OF AIR-TRAFFIC CONTROL-TOWER OPERATORS

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 14th day of June, 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a), 601 (a) and 602 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Authority hereby amends the Civil Air Regulations as follows:

1. Effective August 15, 1940, Part 26 of the Civil Air Regulations, as amended, is amended to read as follows:

PART 26—AIR-TRAFFIC CONTROL-TOWER OPERATOR CERTIFICATES

Qualifications for Certificate

§ 26.1 *General.* An applicant must be a citizen of the United States, of good moral character, and not less than 22 years of age. He must be able to read, write, and understand the English language and to speak the English language without any accent or impediment of speech which would interfere with two-way radio conversation.

§ 26.10 *Physical.* (a) *Eye.* An applicant must have:

(1) A visual acuity of at least 20/20 in each eye separately, without correction, and an average depth perception of 30 millimeters or less, with or without glasses: *Provided*, That if the vision in either or both eyes is not poorer than 20/50 and is brought up to 20/20 or better in each eye by glasses, or if the depth perception is greater than 30 millimeters and can be corrected to at least 30 millimeters by glasses, an applicant may be qualified in either event on condition that the correcting glasses be worn while he is on duty;

(2) No diplopia;

(3) Not more than one diopter of hyperphoria;

(4) Properly balanced eye muscles with an abduction of 3 diopters or more;

(5) Sufficient accommodation to pass a prescribed test based primarily upon ability to read official aeronautical maps;

(6) Normal fields of vision; and

(7) No pathology of the eye.

(b) *Ear, nose, throat, and equilibrium.* An applicant must be able to hear the whispered voice at 8 feet with each ear separately; must have no acute or chronic disease of the middle or internal ear; no disease of the mastoid; no unhealed perforations of the ear drum; no disease or malformation of the nose or throat which would interfere with or be aggravated by the performance of his duties; and no disturbance of equilibrium.

(c) *General physical condition.* An applicant must have no organic or functional disease, nor structural defect or limitation.

(d) *Nervous system.* An applicant must have no disease of the mental or nervous system and no abnormality of the personality.

(e) *Exceptions.* The failure by an applicant to comply with any of the above physical requirements will not disqualify him if, in the opinion of the Authority, such deficiencies would not interfere with the proper performance of his duties.

§ 26.11 *Knowledge.* An applicant must hold a radio telegraph operator's license of not less than the third class, or a restricted radio telephone operator's permit, issued by the Federal Communications Commission, and must pass an examination in the following subjects: [1]

(a) Air traffic rules set forth in Part 60 of the Civil Air Regulations;

(b) Airport traffic control procedures;

(c) Airway traffic control procedures;

(d) Radio frequencies and procedures used for airport traffic control;

(e) Use of radio aids to air navigation;

(f) The making of weather observations.

Qualifications for Ratings

§ 26.2 *Character of ratings.* The holder of an air-traffic control-tower operator certificate (hereafter referred to as "certificate") may receive a junior or senior rating, depending upon his qualifications to perform the duties of an air-traffic control-tower operator (hereafter referred to as "operator") at a particular airport.

§ 26.20 *Qualifications for junior rating.* An applicant must pass an examination on the following subjects:

(a) Local airport rules of the airport for which the rating is sought;

(b) Local aircraft operations and such other aircraft operations as may affect conditions at the airport for which the rating is sought;

(c) Teletype symbols and weather sequences of the airways converging on the airport for which the rating is sought;

(d) Any other subject or subjects in which the Authority may deem an examination necessary.[2]

§ 26.21 *Qualifications for senior rating.*

§ 26.210 *Knowledge.* An applicant must pass an examination in the subjects required for a junior rating and, in addition, the following subjects:

(a) Air navigation facilities within a radius of 200 miles of the airport for which the rating is sought;

(b) Airway traffic control procedures in the area in which the airport for which the rating is sought is located;

(c) Instrument approach and departure procedures at the airport for which the rating is sought;

(d) Any other subject or subjects in which the Authority may deem an examination necessary.[2]

§ 26.211 *Experience.* An applicant must have performed satisfactory service:

(a) As an operator with a senior rating for at least 6 months; or

(b) As an operator with a junior rating at the airport for which the rating is sought for the 6 months immediately preceding application; or

[1] Lists of source material covering the subject matter of these examinations can be obtained from the Airport Traffic Control Section of the Civil Aeronautics Authority.

[2] The applicant will be given adequate notice of the subject of the examination.

(c) For 1 year of the 2 years immediately preceding application as:

(1) An operator with a junior rating at an airport other than that at which the rating is sought; or

(2) An operator at a landing area under military or naval jurisdiction.

§ 26.212 *Other requirements.* The applicant must demonstrate his ability to supervise and manage all activities of the airport control tower or airport radio station, which shall at least include the preparation of such reports as may be required from time to time by the airport manager or the Authority.

Examinations

§ 26.3 *General.* The prescribed examinations will be conducted by representatives of the Authority at a designated time and place. The passing grade in any subject will be 70 percent.

§ 26.30 *Physical examinations.* (a) The prescribed physical requirements must be met before any practical or theoretical examination will be given and must be completed within the 60 days immediately preceding application for a certificate.

(b) A certified copy of a report of a medical examination for flying in the United States Army, Navy, Marine Corps, or Coast Guard, or a copy of a report of a physical examination for a commercial pilot certificate, made within the 60 days preceding the date of filing application for a certificate or any periodic endorsement, will be accepted in lieu of the physical examination required herein.

§ 26.31 *Reexamination.* An applicant who has failed to pass any examination may apply for reexamination after the expiration of 30 days from the date of his failure.

Issuance and Expiration of Certificates

§ 26.4 *Duration.* A certificate will be issued for an initial period of 60 days but, if the holder is not notified to the contrary by the Authority within that period, it will continue in effect indefinitely, expiring only in the event that:

(a) The holder of the certificate fails to secure an endorsement [4] thereof by an inspector of the Authority within the last 45 days of each 12 months' period [5] after the date of issuance; or

(b) An inspector of the Authority shall refuse to endorse the certificate after inspection or examination.

§ 26.40 *Periodic endorsement.* (a) A certificate will not receive a periodic endorsement unless the holder

(1) Has met the physical requirements prescribed for the original issuance of his certificate within the 60 days immediately preceding the expiration of the endorsement period; and

(2) Has served satisfactorily as a rated operator at some time during the 12 months immediately preceding the date of application for endorsement.

(b) A certificate will not receive a periodic endorsement with respect to any rating unless the holder has served satisfactorily as an operator at the airport to which the rating applies at some time during the 6 months immediately preceding the expiration of the endorsement period.

§ 26.41 *Special issuance of certificate and rating.* If a certificate and rating expires, a new certificate and rating will be issued if the applicant complies with the requirements for periodic endorsement. In applying this section, the time during which the applicant must serve as a rated operator in order to comply with the periodic endorsement requirements shall be computed from the date of the application for special issuance rather than the date of expiration of the endorsement period: *Provided,* That this section shall apply only to certificates issued after (effective date of revision).

§ 26.42 *Transfer* of a certificate is prohibited.

§ 26.43 *Existing certificates.* (a) Upon the expiration of a certificate in effect on (effective date of revision), the holder may be issued the certificate provided for herein if he meets the specified physical requirements and, at any time during the 12 months immediately preceding the date of expiration of the former certificate, has performed satisfactory service as an operator.

(b) Any person who secures a certificate under the preceding subsection and who formerly held an associate or senior rating, may be issued a senior rating as an operator at the airport for which he was rated under the former certificate. If such person formerly held a junior rating, he may be issued a junior rating as an operator at the airport for which he was rated under the former certificate.

Regulations

§ 26.5 *Rating record.* A certificated operator shall not serve as such unless there is attached to his certificate the appropriate rating record prescribed and issued by the Authority, nor serve otherwise than in accordance with the limitations prescribed by the Authority in his certificate or rating record:[6] *Provided,* That the holder of a certificate in effect on (effective date of revision) may perform service pursuant to the terms of the certificate without a rating record until the suspension, revocation, or expiration of the certificate.

§ 26.50 *Exercise of authority.* An operator on duty at a control airport within an airway traffic control area or a control zone of intersection shall not exercise the authority vested in such operators by Part 60 of the Civil Air Regulations,[7] unless the operator previously notifies either the airway traffic control center or airway communication station of the action to be taken: *Provided,* That an operator with a junior rating shall not exercise this authority unless such action is taken with the consent of an operator with a senior rating for the particular airport, who is on duty and is present in the control tower or radio station at the time the authorization is given.

§ 26.51 *Control airports.* On and after (six months after effective date of revision), air traffic at a control airport shall not be controlled by an operator with a junior rating for such airport, except under the supervision of an operator with a senior rating for such airport: *Provided,* That in an emergency the manager of the airport may authorize an operator with a junior rating for the airport to control air traffic during the period of such emergency if the airport manager immediately notifies the Regional Manager of the Authority for the region in which the airport is located of the existence of the emergency and the facts and circumstances surrounding it.

§ 26.52 *Relaying information.* An operator shall not relay information or instructions received from airway traffic control personnel, airway communications, or United States Weather Bureau airport stations, otherwise than in the manner approved by the Authority.

§ 26.53 *Maximum hours.* Except in case of an emergency, a certificated operator shall be relieved of all duty for not less than 24 consecutive hours at least once during each 7 consecutive days, and shall not serve, nor be required to serve, as such:

(a) In excess of 10 consecutive hours;

(b) In excess of 10 hours during a period of 24 consecutive hours unless the operator is given a rest period of not less than 8 hours at or before the termination of such 10 hours of duty.

§ 26.54 *Display of certificate.* An operator shall keep his certificate readily available when he is on duty and shall present it for inspection upon request of any officer or employee of the Authority and of any state or municipal official charged with the duty of enforcing local laws or regulations involving Federal compliance.

§ 26.55 *Inspection.* An applicant or a holder of a certificate or rating, upon reasonable request by any representative of the Authority, shall cooperate fully in any examination which may be made of him.

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[4] This endorsement will be referred to hereafter as a "periodic endorsement."

[5] This 12 months' period will be referred to hereafter as the "endorsement period."

[6] The rating record is a sheet which will be attached to all certificates when they are issued and will prescribe the airports at which the holder is authorized to serve and the class of rating held.

[7] Part 60 of the Civil Air Regulations empowers an operator on duty in a radio equipped airport control tower in operation at a control airport to authorize flying in a control zone when either the ceiling or visibility is below the minimums which prevail in the absence of any such special authorization and to suspend contact flying operations within such zone whenever, in his opinion, safety requires such action.

§ 26.56 *Surrender of certificate.* Upon the suspension, revocation, or expiration of a certificate, the holder shall, upon request, surrender such certificate to a representative or employee of the Authority.

For the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 40-2469; Filed, June 17, 1940; 11:38 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 2959]

IN THE MATTER OF SWEETS COMPANY OF AMERICA, INC.

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in interstate commerce or in District of Columbia, of candy, said product so packed and assembled that sales thereof to the general public are to be, or are likely to be, made by means of a lottery, gambling device or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Sweets Company of America, Inc., Docket 2959, May 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in interstate commerce or in District of Columbia, of candy, dealers with packages or assortments of candy which are used or which are likely to be used to conduct a lottery, gambling device or gift enterprise in the sale or distribution of said candy contained in the said packages or assortments to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Sweets Company of America, Inc., Docket 2959, May 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in interstate commerce or in District of Columbia, of candy, dealers with packages or assortments of candy, for sale to public, composed of individually wrapped pieces of candy of uniform size and shape and of different colors, together with larger pieces of candy or any other merchandise, which said larger pieces of candy or other merchandise are to be or are likely to be given as prizes to the purchasers procuring pieces of said candy of a particular color, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Sweets Company of America, Inc., Docket 2959, May 25, 1940]

MODIFIED ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of May, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, the answer of the respondent, the testimony and other evidence, and briefs and oral arguments for the respective parties; and the Commission having, on December 7, 1938, made its findings as to the facts and conclusion that the respondent Sweets Company of America, Inc. had violated the provisions of the Federal Trade Commission Act; and having, on December 7, 1938, issued and subsequently served, upon the respondent, its order to cease and desist [1] from said violations; and the respondent Sweets Company of America, Inc., having thereafter petitioned the United States Circuit Court of Appeals for the Second Circuit to review and set aside said order to cease and desist; and said Court, on January 29, 1940, having made and entered its written opinion directing that said order to cease and desist be modified by the substitution of the words "are likely to be made" for "may be made" in subdivision 1 thereof, by the substitution of the words "are likely to be used" for "may be used" in subdivision 2 thereof, and by the substitution of the words "are likely to be given" for "may be given" in subdivision 3 thereof, and that, as so modified, the said order be affirmed; and the Court, on February 19, 1940, having entered its decree modifying the Commission's order as directed in its opinion, and, as so modified, affirming it and directing the respondent to comply therewith; and the Court, having, in its decree, directed the Commisison to modify its said order to cease and desist as set forth in said decree—

Now, therefore, pursuant to the mandate in said decree, and to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with said decree:

It is ordered That the respondent, Sweets Company of America, Inc., its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of candy in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Selling and distributing candy so packed and assembled that sales of such candy to the general public are to be made or are likely to be made by means of a lottery, gambling device or gift enterprise.

2. Supplying to or placing in the hands of dealers, packages or assortments of candy which are used or which are likely to be used to conduct a lottery, gambling device or gift enterprise in the sale or distribution of said candy contained in the said packages or assortments to the public.

3. Supplying to or placing in the hands of dealers for sale to the public packages or assortments of candy composed of individually wrapped pieces of candy of uniform size and shape and of different colors, together with larger pieces of candy or any other merchandise, which said larger pieces of candy or other merchandise are to be or are likely to be given as prizes to the purchasers procuring pieces of said candy of a particular color.

It is further ordered, That the respondent shall, within sixty days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 40-2433; Filed, June 15, 1940; 11:21 a. m.]

[1] 3 F.R. 3037.

[Docket No. 3303]

IN THE MATTER OF HYGIENIC CORPORATION OF AMERICA, ET AL.

§ 3.6 (n) (2) *Advertising falsely or misleadingly—Nature—Product:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety.* Representing, in connection with offer, etc., in commerce, of respondents' so-called feminine hygiene preparations and appliances designated as "Protex-U" and "Surete" and consisting substantially of douche powder, ointment, jelly, syringe, applicator, and vaginal diaphragm, or other similar preparation or appliance, that any of said preparations or appliances, whether used alone or in conjunction with any other of said preparations or appliances, (1) will prevent conception, or (2) possesses any therapeutic value in the treatment of delayed menstruation or any other ailment or disease peculiar to women; or representing, in said connection, that any of them destroy bacteria or are competent or effective prophylactics, or that respondents' appliances will fit all female anatomies; or representing, through failure to reveal that use of the appliance designated by respondents as "Health Shield" (vaginal syringe) is not wholly safe, or through any other means or device, or in any other manner, that such appliance may be used with safety or without injurious effects; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Hygienic Corporation of America, et al., Docket 3303, June 8, 1940]

§ 3.6 (a) (9.5) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Government connection:* § 3.6 (a) (10)

Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Government endorsement: § 3.6 (a) (13.5) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Individual or corporate business as association:* § 3.6 (a) (18) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Non-profit character:* § 3.6 (a) (20) *Advertising falsely or misleadingly—Business status, advantages or connections—Personnel or staff:* § 3. 6 (1) *Advertising falsely or misleadingly—Indorsements and testimonials:* § 3.18 *Claiming indorsements or testimonials falsely:* § 3.96 (b) (2.3) Using misleading *name—Vendor—Individual or corporate business as association:* § 3.96 (b) (4) *Using misleading name—Vendor—Non-profit character.* Representing, in connection with offer, etc., in commerce, of respondents' so-called feminine hygiene preparations and appliances designated as "Protex-U" and "Surete" and consisting substantially of douche powder, ointment, jelly, syringe, applicator, and vaginal diaphragm, or other similar preparation or appliance, that the respondents or their business activities are connected in any way with any public health service, or that any of respondents' products are approved by any public health service, or using, in said connection, the name "American Health Association" or "American Health Association of Washington, D. C.", or any other name of similar import or meaning, to designate or describe the respondents or their business, or word "Nurse" or "Visiting Nurse" or "Nurse Membership", or any other term of similar import or meaning, to designate or describe respondents' solicitors or saleswomen, or otherwise representing that respondents' solicitors or saleswomen are nurses, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Hygienic Corporation of America, et al., Docket 3303, June 8, 1940]

IN THE MATTER OF HYGIENIC CORPORATION OF AMERICA, A CORPORATION; HYGIENIC COMPANY OF AMERICA, A CORPORATION; MERRILL-SAUNDERS COMPANY, LTD., A CORPORATION; AND HAROLD L. DEBAR, INDIVIDUALLY AND TRADING AS AMERICAN HEALTH ASSOCIATION OF WASHINGTON, D. C., WOMEN'S ADVISORY BUREAU, WOMEN'S CO-OPERATIVE SERVICE, PROTEX-U-HYGIENIC SERVICE, AMERICAN BUREAU OF HYGIENE AND SURETE LABORATORIES

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 8th day of June, A. D., 1940.

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and other evidence taken before Arthur F. Thomas and Randolph Preston, examiners of the Commission theretofore duly designated by it, in support of the allegations of the complaint (no evidence having been offered by the respondents) and brief filed herein by William L. Taggart, attorney for the Commission (no brief having been filed on behalf of the respondents and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Hygienic Corporation of America, a corporation; Hygienic Company of America, a corporation; Merrill-Saunders Company, Ltd., a corporation; and Harold L. DeBar, individually, and trading as American Health Association of Washington, D. C., Women's Advisory Bureau, Women's Co-operative Service, Protex-U-Hygienic Service, American Bureau of Hygiene and Surete Laboratories; or trading under any other name or names; their respective officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondents' so-called feminine hygiene preparations and appliances now designated as "Protex-U" and "Surete" and consisting substantially of douche powder, ointment, jelly, syringe, applicator, and vaginal diaphragm, whether sold together or separately, or any other preparation composed of substantially similar ingredients or possessing substantially similar properties, or any other appliance possessing substantially similar characteristics, whether sold under the same name or under any other name or names, do forthwith cease and desist from:

(1) Representing that any of said preparations or appliances, whether used alone or in conjunction with any other of said preparations or appliances, will prevent conception;

(2) Representing that any of said preparations or appliances, whether used alone or in connection with any other of said preparations or appliances, possess any therapeutic value in the treatment of delayed menstruation or any other ailment or disease peculiar to women;

(3) Representing that any of said preparations or appliances destroy bacteria or are competent or effective prophylactics;

(4) Representing that respondents' appliances will fit all female anatomies;

(5) Representing, through failure to reveal that the use of the appliance designated by respondents as "Health Shield" (vaginal syringe) is not wholly safe, or through any other means or device, or in any other manner, that such appliance may be used with safety or without injurious effects;

(6) Representing that the respondents or their business activities are connected in any way with any public health service, or that any of respondents' products are approved by any public health service;

(7) Using the name "American Health Association" or "American Health Association of Washington, D. C." or any other name of similar import or meaning to designate or describe the respondents or their business;

(8) Using the word "Nurse" or "Visiting Nurse" or "Nurse Membership" or any other term of similar import or meaning to designate or describe respondents' solicitors or saleswomen, or otherwise representing that respondents' solicitors or saleswomen are nurses.

It is further ordered, That the respondents shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 40-2465; Filed, June 17, 1940; 11:33 a. m.]

[Docket No. 3785]

IN THE MATTER OF NEW YORK DIESEL INSTITUTION, INC., ET AL.

§ 3.6 (m) *Advertising falsely or misleadingly—Jobs and employment service:* § 3.6 (ff5) *Advertising falsely or misleadingly—Undertakings, in general:* § 3.72 (g) *Offering deceptive inducements to purchase—Job guarantee:* § 3.72 (p) *Offering deceptive inducements to purchase—Undertakings, in general.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of courses of study concerning Diesel engines and other trade subjects and other courses of study and instruction for various positions, employments, etc., conducted in whole or in part by correspondence, that employment is available with good pay to any student who completes one of its courses and that respondent will procure or aid in the procuring of said employment for students taking one of its courses of instruction, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, New York Diesel Institution, Inc., et al., Docket 3785, May 29, 1940]

§ 3.6 (dd) *Advertising falsely or misleadingly—Special offers:* § 3.72 (g10) *Offering deceptive inducements to purchase—Limited offers:* § 3.72 (n) *Offering deceptive inducements to purchase—Special offers.* Representing, in connection with offer, etc., in interstate com-

[1] 3 F.R. 1542.

merce or in District of Columbia, of courses of study concerning Diesel engines and other trade subjects and other courses of study and instruction for various positions, employments, etc., conducted in whole or in part by correspondence, to prospective students, that respondent's offer of training is made only to a limited number of students in any given territory and to persons having special qualifications for carrying on the courses of study offered by respondent, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, New York Diesel Institution, Inc., et al., Docket 3785, May 29, 1940]

§ 3.6 (ee) *Advertising falsely or misleadingly—Terms and conditions:* § 3.72 (n10) *Offering deceptive inducements to purchase—Terms and conditions.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of courses of study concerning Diesel engines and other trade subjects and other courses of study and instruction for various positions, employments, etc., conducted in whole or in part by correspondence, that classes including shop training with Diesel engines and machinery installed in its buildings will be held in various localities other than Newark, New Jersey, under competent instructors, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, New York Diesel Institution, Inc., et al., Docket 3785, May 29, 1940]

§ 3.6 (n) (2) *Advertising falsely or misleadingly—Nature—Product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of courses of study concerning Diesel engines and other trade subjects and other courses of study and instruction for various positions, employments, etc., conducted in whole or in part by correspondence, that the courses of study offered by respondent, if diligently pursued by a student of average ability, are such that they will enable such student, without other experience or training, to become qualified as a Diesel engineer, expert, operator, or skilled workman on Diesel engines, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, New York Diesel Institution, Inc., et al., Docket 3785, May 29, 1940]

IN THE MATTER OF NEW YORK DIESEL INSTITUTION, INC., A CORPORATION, AND HENRY M. KRAMRATH, JOHN L. SNIDER, EVERETT K. PANGBURN, RICHARD B. CORNELL, FRANK F. HAYWARD, INDIVIDUALLY AND AS OFFICERS OF SAID CORPORATION

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of May, A. D. 1940.

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the testimony and other evidence in support of the allegations of the complaint and in opposition thereto, and the answer of respondent, New York Diesel Institution, Inc., a corporation, in which answer said respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, New York Diesel Institution, Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of courses of study concerning Diesel engines and other trade subjects and other courses of study and instruction intended to prepare students for various positions, employments, trades, callings and professions, which are conducted in whole or in part by correspondence, in interstate commerce or in the District of Columbia, do forthwith cease and desist:

(1) From representing directly, indirectly or by inference that employment is available with good pay to any student who completes one of its courses and that respondent will procure or aid in the procuring of said employment for students taking one of its courses of instruction;

(2) From representing directly, indirectly or by inference to prospective students that its offer of training is made only to a limited number of students in any given territory and to persons having special qualifications for carrying on the courses of study offered by respondent;

(3) From representing directly, indirectly or by inference that classes including shop training with Diesel engines and machinery installed in its buildings will be held in various localities other than Newark, New Jersey, under competent instructors;

(4) From representing directly, indirectly or by inference that the courses of study offered by it, if diligently pursued by a student of average ability, are such that they will enable such student, without other experience or training, to become qualified as a Diesel engineer, expert, operator, or skilled workman on Diesel engines.

It is further ordered, That the complaint herein be, and the same hereby is, dismissed as to Henry M. Kramrath, John L. Snider, Everett K. Pangburn, Richard B. Cornell and Frank F. Hayward, for the reason that the complaint and notice of hearings were not served upon said individual respondents because their whereabouts were unknown.

[1] 4 F.R. 2504.

It is further ordered, That the respondent New York Diesel Institution, Inc., shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 40-2463; Filed, June 17, 1940; 11:32 a. m.]

[Docket No. 4067]

IN THE MATTER OF POW-O-LIN LABORATORIES

§ 3.6 (l) *Advertising falsely or misleadingly—Indorsements and testimonials:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.18 *Claiming indorsements or testimonials falsely.* Disseminating, etc., advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of respondent's "Pow-O-Lin" or other similar medicinal preparation, which advertisements represent, directly or by implication, that respondent's preparation is a cure or remedy for biliousness, indigestion, gas pains, headaches, dizziness, pains in the back or chest, stiffness of the joints, swollen feet or ankles, nervousness, insomnia, loss of appetite, or lack of energy, or a competent or effective treatment for such various conditions as symptoms, in excess of temporarily relieving such symptoms when due to or persisting because of constipation, or that it is a cure or remedy for said last-named condition, or that use thereof will serve to eliminate or affect tendency thereto, or that it constitutes a competent or effective treatment for constipation in excess of assisting in the temporary evacuation of the intestinal tract, or possesses any therapeutic properties beyond those of a cathartic or laxative, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Pow-O-Lin Laboratories, Docket 4067, June 6, 1940]

IN THE MATTER OF HERB JUICE-PENOL COMPANY, INC., A CORPORATION, TRADING AS POW-O-LIN LABORATORIES

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C. on the 6th day of June, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all inter-

vening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Herb Juice-Penol Company, Inc., a corporation, trading as Pow-O-Lin Laboratories, or trading under any other name or names, its officers, representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

Disseminating or causing to be disseminated any advertisement by means of the United States mails or in commerce, as "commerce" is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of respondent's medicinal preparation now designated by the name "Pow-O-Lin" or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or any other name or names, or disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said medicinal preparation, which advertisements represent directly or by implication:

1. That respondent's preparation is a cure or remedy for biliousness, indigestion, gas pains, headaches, dizziness, pains in the back or chest, stiffness of the joints, swollen feet or ankles, nervousness, insomnia, loss of appetite, or lack of energy;

2. That respondent's preparation is a competent or effective treatment for such symptoms as biliousness, indigestion, gas pains, headaches, dizziness, pains in the back or chest, stiffness of the joints, swollen feet or ankles, nervousness, insomnia, loss of appetite, or lack of energy, in excess of temporarily relieving such symptoms when they are due to, or persist because of, constipation;

(3) That respondent's preparation is a cure or remedy for constipation or that the use of said preparation will serve to eleminate or affect the tendency to constipation;

4. That respondent's preparation constitutes a competent or effective treatment for constipation in excess of assisting in the temporary evacuation of the intestinal tract;

5. That respondent's preparation possesses any therapeutic properties beyond those of a cathartic or laxative.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-2464; Filed, June 17, 1940; 11:32 a. m.]

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS

[T.D. 50169]

ANTIDUMPING—SAFETY MATCHES FROM FINLAND, AUSTRIA (GERMANY), LATVIA, HOLLAND (THE NETHERLANDS), NORWAY, POLAND AND ESTONIA [1]

JUNE 13, 1940.

To Collectors of Customs and Others Concerned:

T.D. 50026 [2] revoked the findings of dumping against safety matches of the strike-on-box type from Finland, Austria (Germany), Latvia, Holland (The Netherlands), Norway, Poland and Estonia published, respectively, in T.Ds. 44716 and 44718 to 44723, inclusive, of March 23, 1931, as regards importations made on or after the date of said decision.

An investigation conducted by the Department shows that on and after May 11, 1934, the domestic match industry was not being and was not likely to be injured as a result of the importation into the United States of safety matches of the strike-on-box type. Accordingly, the findings of dumping against safety matches of the strike-on-box type from Finland, Austria (Germany), Latvia, Holland (The Netherlands), Norway, Poland and Estonia, published, respectively, in T.Ds. 44716 and 44718 to 44723, inclusive, of March 23, 1931, are hereby revoked as regards merchandise entered for consumption or withdrawn from warehouse for consumption on and after May 11, 1934. (Sec. 201, 42 Stat. 11; 19 U. S. C. 160)

[SEAL] HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 40-2461; Filed, June 17, 1940; 11:09 a. m.]

TITLE 24—HOUSING CREDIT

CHAPTER IV—HOME OWNERS' LOAN CORPORATION

[Administrative Order No. 2-262]

PART 402—LOAN SERVICE

PROPERTY PURCHASED BY CORPORATION EMPLOYEE—CONTROL SUPERVISOR

Section 402.05-18 is amended by deleting "Partial Release and Property Transfer Section of the Regional Office" in the second sentence, and substituting therefor "Control Supervisor."

(Effective date June 15, 1940)

(Above procedure promulgated by General Manager and General Counsel pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k)).

Promulgated by General Manager and General Counsel of Home Owners' Loan Corporation.

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 40-2466; Filed, June 17, 1940; 11:37 a. m.]

[Administrative Order No. 2-263]

PART 402—LOAN SERVICE

MISCELLANEOUS CREDITS

Section 402.15-3 is amended to read as follows:

§ 402.15-3 *Notice of Miscellaneous credits.* Application of all miscellaneous credits except those included in Form 194, those developing out of the closing of loans, sales, or resulting from advances previously charged to home owners' accounts, or from excesses of less than $25.00 in insurance loss cases after restoration of the property, shall be referred to the Control Supervisor. The Control Supervisor shall consider each case so referred and recommend to the Regional Manager and Regional Counsel the action to be taken, as well as the application of miscellaneous credits resulting from such action. When the home owner's written direction for the application of funds to taxes or other items is required and has not already been given, such written direction shall be obtained. When miscellaneous credits are to be used for the payment of taxes, the Tax Section shall prepare the vouchers and certify the amount of such payment.

(Effective date June 15, 1940)

(Above procedure promulgated by General Manager and General Counsel pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647, 12 U.S.C. 1463 (a), (k))

Promulgated by General Manager and General Counsel of Home Owners' Loan Corporation.

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 40-2467; Filed, June 17, 1940; 11:37 a. m.]

[1] This document affects the tabulation in 19 CFR 12.15.
[2] 4 F.R. 4792.

TITLE 29—LABOR

CHAPTER V—WAGE AND HOUR DIVISION

PART 516—REGULATIONS ON RECORDS TO BE KEPT BY EMPLOYERS

The following amendment to Regulations, Part 516—Regulations on Records to be Kept by Employers Pursuant to section 11 (c) of the Fair Labor Standards Act of 1938, is hereby issued. This amendment amends § 516.1[1] of said Regulations, Records required, with respect to the records required to be kept by employers who employ or purport to employ any employee in pursuance of the provisions of section 7 (b) (1) or section 7 (b) (2), and shall become effective upon my signing the original and publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed or modified by regulations thereafter made and published.

Signed at Washington, D. C., this 10th day of June 1940.

PHILIP B. FLEMING,
Administrator.

§ 516.1 *Records required.*

* * * * *

Provided further, That with respect to employees employed or purported to be employed by an employer in pursuance of the provisions of section 7 (b) (1) or section 7 (b) (2) of the Fair Labor Standards Act, employers shall comply with each of the following additional requirements:

(a) Keep and preserve a copy of each collective bargaining agreement which entitles or purports to entitle an employer to employ any of his employees in pursuance of the provisions of section 7 (b) (1) or section 7 (b) (2) of the Fair Labor Standards Act.

(b) Report and file with the Administrator at Washington, D. C., within thirty days after such collective bargaining agreement has been made, a copy of each such collective bargaining agreement. Likewise, a copy of each amendment or addition thereto shall be reported and filed with the Administrator at Washington, D. C., within thirty days after such amendment or addition has been agreed upon. If any such collective bargaining agreement, or amendment or addition thereto, was made prior to the 25th day of April 1939, a copy thereof shall be reported and filed with the Administrator at Washington, D. C., on or before the 26th day of May 1939. The reporting and filing of any collective bargaining agreement or amendment or addition thereto shall not be construed to mean that such collective bargaining agreement or amendment or addition thereto is a collective bargaining agreement within the meaning of the provisions of section 7 (b) (1) or section 7 (b) (2).

(c) Make and preserve a record designating each employee employed pursuant to each such collective bargaining agreement and each amendment and addition thereto.

(d)[2] (1) In the case of each such collective bargaining agreement which provides that no employee employed in pursuance of the provisions of section 7 (b) (1) shall work more than 1,000 hours "during any period of 26 consecutive weeks" and specifies a 26 week period, make and preserve a record of the total hours worked during the specified 26 week period by each such employee.

(2) In the case of each such collective bargaining agreement which provides that no employee employed in pursuance of the provisions of section 7 (b) (1) shall work more than 1,000 hours "during any period of 26 consecutive weeks" but does not specify a 26 week period, make and preserve a record of the total hours worked during each of the 26 week periods after each week of operation under the agreement by each such employee.

[F. R. Doc. 40-2442; Filed, June 15, 1940; 12:07 p. m.]

PART 526—AMENDMENT OF REGULATIONS APPLICABLE TO INDUSTRIES OF A SEASONAL NATURE ISSUED

The following amendment to Regulations—Part 526—Regulations Applicable to Industries of a Seasonal Nature Issued Pursuant to section 7 (b) (3) of the Fair Labor Standards Act, is hereby issued. This amendment amending § 526.3[1] of Title 29, Chapter V, Part 526, Code of Federal Regulations, shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER, and shall be in force and effect until repealed by regulations hereafter made and published.

Signed at Washington, D. C., this 14 day of June 1940.

PHILIP B. FLEMING,
Administrator.

§ 526.3 *Industry to which the exemption is applicable.* The exemption for an industry of a seasonal nature is applicable to an industry (a) which both

(1) engages in the handling, extracting, or processing of materials during a season or seasons occurring in a regularly, annually recurring part or parts of the year; and

(2) ceases production, apart from work such as maintenance, repair, clerical, and sales work, in the remainder of the year because of the fact that, owing to climate or other natural conditions, the materials handled, extracted, or processed, in the form in which such materials are handled, extracted, or processed, are not available in the remainder of the year,

Or (b) which both

(1) engages in the packing or storing of agricultural commodities in their raw and natural state, and

(2) receives for packing or storing 50 percent or more of the annual volume in a period or periods amounting in the aggregate to not more than 14 workweeks.

[F. R. Doc. 40-2443; Filed, June 15, 1940; 12:07 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

CHAPTER II—OFFICE OF THE COMMISSIONER OF ACCOUNTS AND DEPOSITS

[1940—Supp. 2, Department Circular 570, Revised April 5, 1940]

PART 226—SURETY COMPANIES

CORPORATIONS ACCEPTABLE AS SURETIES ON FEDERAL BONDS

JUNE 14, 1940.

A Certificate of Authority has been issued by the Secretary of the Treasury to the following company under the Act of Congress approved August 13, 1894, 28 Stat. 279-80, as amended by the Act of Congress approved March 23, 1910, 36 Stat. 241, (U. S. Code, title 6, secs. 6-13) as an acceptable surety on Federal bonds. An underwriting limitation of $110,000 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be procured from the Treasury Department, Section of Surety Bonds, Washington, D. C.

Name of Company, Location of Principal Executive Office, and State in Which Incorporated

California: Pacific Employers Insurance Co., Los Angeles.

[SEAL] D. W. BELL,
Acting Secretary of the Treasury.

[F. R. Doc. 40-2460; Filed, June 17, 1940; 11:09 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

CHAPTER I—GENERAL LAND OFFICE

[Circular No. 1471]

GRAZING LEASE FORM AMENDED

The form of grazing lease, Form 4-722, prescribed by Circular No. 1401, dated April 30, 1937, as amended by Circular No. 1442, dated January 19, 1938, and by Circular No. 1469, dated April 17, 1940, § 160.30 CFR, is hereby amended by adding thereto the following paragraphs:

(k) The lessee shall be entitled to the same privileges and protection with respect to hunting and fishing upon the leasehold as may be provided by the

[1] 4 F.R. 4252.

[1] 3 F.R. 2534.

[2] Clause (d) contains the new requirement added by this amendment.

State laws with respect to hunting and fishing on private property.

(l) It is also further agreed that no Member of or Delegate to Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified, and during his continuance in office, and no officer, agent or employee of the Department of the Interior, other than members of the district advisory boards, appointed in accordance with section 18 of the Taylor Grazing Act, which was added by the act of July 14, 1939, Public No. 173, shall be admitted to any share or part in this lease, or derive any benefit that may arise therefrom, and that the provisions of section 3741 of the Revised Statutes and sections 114, 115, and 116 of the Criminal Code, approved March 4, 1909 (35 Stat. 1109), relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

FRED W. JOHNSON,
Commissioner.

Approved, June 7, 1940.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 40-2448; Filed, June 17, 1940; 9:36 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

CHAPTER I—INTERSTATE COMMERCE COMMISSION

COMBINATIONS OF MOTOR VEHICLES

At a session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 6th day of June, A. D. 1940.

Section 203 (a) (13) as amended June 29, 1938, and section 212 (b) and section 213 (a) and section 213 (b) (1) and section 213 (e), all of the Motor Carrier Act, 1935, as amended, being under consideration, and

It appearing, That there is need for a determination by the Commission whether any, and if so, what combination of motor vehicles of a person should be deemed one motor vehicle for the purpose of computing the number of motor vehicles involved in unifications under the provisions of said Section 213 of the Motor Carrier Act, 1935, as amended, and

It further appearing, That it is reasonable that the combination of vehicles hereinafter set forth, but no other combination, should be deemed one motor vehicle for the purpose of said provisions:

It is ordered, That the combination of a tractor and a semi-trailer shall be deemed a single motor vehicle in computing the number of motor vehicles of a person involved in unifications under the provisions of said Section 213, and that in such computation any one tractor may be paired with any one semi-trailer as a single motor vehicle but any tractor or any semi-trailer in excess of those so paired shall be computed as one motor vehicle, and

It is further ordered, That for the purpose of this order the term "tractor" shall mean any motor vehicle designed and used primarily for drawing other vehicles and so constructed as to carry a part of the weight of the vehicle and load so drawn, and the term "semi-trailer" shall mean any motor vehicle, other than a pole-trailer or a single motor vehicle transported in drive-away operations by means of a saddle-mount, with or without motive power and designed to be drawn by another motor vehicle and so constructed that some part of its weight and that of its load rests upon the towing vehicle.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 40-2454; Filed, June 17, 1940; 10:50 a. m.]

TITLE 50—WILDLIFE

CHAPTER I—BUREAU OF BIOLOGICAL SURVEY

PART 26—EAST CENTRAL REGION NATIONAL WILDLIFE REFUGES

FISHING WITHIN THE CHAUTAUQUA MIGRATORY WATERFOWL REFUGE, ILLINOIS

Pursuant to section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222—16 U.S.C. 715i), as amended, and to the President's Reorganization Plan No. II (53 Stat. 1431), the order of the Secretary of Agriculture, of March 31, 1938,[1] permitting fishing within the Chautauqua Migratory Waterfowl Refuge, Illinois, is hereby revoked, and the following is hereby ordered:

§ 26.154 *Fishing within the Chautauqua Migratory Waterfowl Refuge, Illinois.* Until further notice, commercial and noncommercial fishing are permitted in the waters of the Chautauqua Migratory Waterfowl Refuge, Illinois, in accordance with the provisions of the regulations dated November 23, 1937,[2] for the administration of national wildlife refuges under the jurisdiction of the Bureau of Biological Survey, and subject to the following conditions and restrictions:

(1) *Hours of fishing.* Commercial and noncommercial fishing are permitted only between the hours of 4 a. m. and 9 p. m., on the days open to fishing.

(2) *Recreational (noncommercial) fishing.* During the period May 1 to the third Sunday in September, inclusive, all waters of the refuge shall be open to noncommercial fishing by hook and line only (as defined by State law); and, except during the Federal open season on migratory waterfowl, the following described waters shall be open to noncommercial fishing at any time:

(a) All the borrow pit adjoining the dike, or levee, on the north, west, and south parts of the refuge. Fishing from the dike, or levee, will not be permitted except as hereinafter provided in paragraph 8 (a).

(b) In the channel of the old ditch and in the waters adjoining said ditch to the southeast, said area being a strip of water averaging approximately one-eighth mile in width and lying parallel to and adjoining the main shore line in sec. 10, T. 22 N., R. 8 W. Fishing from the main shore line will be permitted in these waters.

(c) In the channel of the old ditch and waters adjoining it to the southeast, said area being a strip of water approximately one-eighth mile in width and lying parallel to and adjoining the main shore line in secs. 1 and 2, T. 22 N., R. 8 W., and sec. 36, T. 23 N., R. 8 W. Fishing from the main shore line will be permitted in these waters.

No fishing of any kind will be permitted within the refuge boundary during the Federal open season on migratory waterfowl, except that noncommercial fishing will be permitted at all times in the borrow pit along the north boundary from the inlet gate east to the main shore, a distance of approximately 700 feet, and situated in the NE¼SE¼, sec. 36, T. 23 N., R. 8 W.

(3) *Commercial fishing.* The following described waters of the refuge shall be open to commercial fishing at any time, except during the Federal open season on migratory waterfowl, for such species as may be legally taken under the laws of the State of Illinois:

(a) That part of the borrow pit that adjoins the main refuge dike from the northwest corner of the NE¼SW¼, sec. 35, T. 23 N., R. 8 W, southwesterly to the southeast corner of the NE¼SW¼, sec. 18, T. 22 N., R. 8 W; thence easterly to the southeast corner of the NE¼SW¼, sec. 17, T. 22 N., R. 8 W: *Provided*, That the Chief of the Bureau of Biological Survey may issue such special permits as may be necessary to reduce the population of nongame fishes in other waters of the refuge.

(4) *State fishing laws.* Any person who fishes within the refuge must comply with the applicable fishing laws and regulations of the State of Illinois. In the event that fishing is found to be unduly depleting any species of fishes or is interfering with the use of any particular waters by migratory birds or other wildlife, the privilege of fishing will be suspended by the Secretary, which suspension shall be effective 3 days after publication of notice thereof in the FEDERAL REGISTER.

[1] 3 F.R. 673; 50 CFR 26.154.
[2] 2 F.R. 2537; 50 CFR 12.1.

(5) *Fishing licenses and permits.* Any person who fishes within the refuge shall be in possession of a valid fishing license issued by the State of Illinois, if such license is required. This license shall serve as a Federal permit for fishing in the refuge and must be carried on the person of the permittee while so fishing. The license must be exhibited upon request of any representative of the Illinois Department of Conservation authorized to enforce the State game and fish laws, or of any representative of the Bureau of Biological Survey.

(6) *Special fishing restrictions.* No seine shall be employed in the taking of minnows for bait in any of the waters of the refuge. Recreational fishing shall be by the use of hook and line only (as defined by State law), except that the use of the set, trot, throw, or bank lines to which are attached a series of baited hooks, by means of short lines or otherwise, is prohibited.

(7) *Use of motor boats.* The use of motor boats, either inboard or outboard, except for official purposes, is prohibited on any of the waters enclosed by the dike, or levee, that circumscribes the refuge area on the north, west, and south sides.

(8) *Trespass on refuge lands.* No person or persons shall enter upon, cross over, or fish from any dike, dam, levee, jetty or other water-control structure at any point or points within the refuge except as follows:

(a) Noncommercial fishing in the borrow pit will be permitted from that part of the dike extending easterly from the inlet gate for approximately 700 feet to the main shore line and situated in the NE¼SE¼, sec. 36, T. 23 N., R. 8 W.

(b) Boats, equipment, and other fishing paraphernalia may be hauled or taken across the said dikes, or levees, at such cross-overs, or drag-overs, as shall from time to time be designated by the officer in charge of the refuge by suitable posting.

The officer in charge shall designate by suitable posting such places of entry into and routes of travel within the refuge as he may consider necessary to reach fishing waters, and no person shall enter upon any other part of the refuge except as hereinabove provided.

No person other than a regular employee of the United States Department of the Interior, the Illinois State Department of Conservation, or the Illinois Natural History Survey shall enter or go upon any part of the refuge during the Federal open season on migratory waterfowl except for noncommercial fishing in the NE¼SE¼, sec. 36, T. 23 N., R. 8 W., as provided in paragraph (2) herein.

E. K. BURLEW,
Acting Secretary of the Interior.

JUNE 8, 1940.

[F. R. Doc. 40-2430; Filed, June 15, 1940; 9:27 a. m.]

PART 26—EAST CENTRAL REGION NATIONAL WILDLIFE REFUGES

FISHING WITHIN THE NECEDAH NATIONAL WILDLIFE REFUGE, WISCONSIN

Pursuant to section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222—16 U.S.C. 715i), as amended, and to the President's Reorganization Plan No. II (53 Stat. 1431), the following is ordered:

§ 26.678 *Fishing within the Necedah National Wildlife Refuge, Wisconsin.* Until further notice, noncommercial fishing, by hook and line only (as defined by State law), is permitted in certain waters of the Necedah National Wildlife Refuge, Wisconsin, during the periods July 1 to September 15, inclusive, and December 1 to the following January 31, inclusive, of each season in accordance with the provisions of the regulations dated November 23, 1937,[1] for the administration of national wildlife refuges under the jurisdiction of the Bureau of Biological Survey, and subject to the following conditions and restrictions:

(1) *Waters open to fishing.* During the period December 1 to the following January 31, all waters within the refuge shall be open to fishing, and during the period July 1 to September 15, inclusive, of each year, that part of Rynearson Flowage No. 1 in the NE¼ sec. 8 and the NW¼ and the N½SW¼ sec. 9, T. 18 N., R. 3 E., shall be open to fishing.

(2) *State fishing laws.* Any person who fishes within the refuge must comply with the applicable fishing laws and regulations of the State of Wisconsin. In the event that fishing is found to be unduly depleting any species of fishes or is interfering with the use of any particular waters by migratory birds or other wildlife, the privilege of fishing will be further restricted or suspended by the Secretary, which restriction or suspension shall be effective three days after publication of notice thereof in the FEDERAL REGISTER.

(3) *Fishing licenses and permits.* Any person who fishes within the refuge shall be in possession of a valid fishing license issued by the State of Wisconsin, if such license is required. This license shall serve as a Federal permit for fishing in the refuge and must be carried on the person of the licensee while so fishing. The license must be exhibited upon request of any representative of the Wisconsin Conservation Department authorized to enforce the State game and fish laws or of any representative of the Bureau of Biological Survey.

(4) *Routes of travel.* Persons entering the refuge for the purpose of fishing shall follow such routes of travel as may be designated by the officer in charge of the refuge by suitable posting.

(5) *Use of motor boats.* The use of motor boats, either inboard or outboard, is prohibited on all waters of the refuge except for official purposes.

HAROLD L. ICKES,
Secretary of the Interior.

JUNE 7, 1940.

[F. R. Doc. 40-2429; Filed, June 15, 1940; 9:27 a. m.]

[1] 2 F.R. 2951; 50 CFR 12.

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 49-FD]

APPLICATION OF THE RECEIVERS OF THE SEABOARD AIR LINE RAILWAY COMPANY

ORDER DENYING APPLICATION FOR EXEMPTION

The Receivers of the Seaboard Air Line Railway Company having filed an application with the National Bituminous Coal Commission on August 4, 1937, in accordance with the provisions of Section 4-A of the Bituminous Coal Act of 1937, requesting exemption under Section 4, II (1) thereof, on the ground that Applicants are the producers of coal consumed by them and mined by Daniel H. Pritchard and the Peerless Coal Company from the William Ann, Glamorgan and Chilton Block No. 1 Mines which Applicants have leased, and on the further ground that such coal cannot validly be regulated under the Act; and

Pursuant to Orders and Notices of the Commission a hearing upon the application having been held before a duly designated Examiner of the Commission on September 22 and 23, 1937, in the hearing room of the Commission, Washington Hotel, Washington, D. C., at which hearing all interested parties were granted full opportunity to appear, to present evidence, to examine and cross-examine witnesses and otherwise to be heard; and

The Examiner having submitted his report containing proposed findings of fact and conclusions and recommending denial of the application; and

Applicant having filed exceptions to the Examiner's report and a brief in support thereof and having presented oral argument on the exceptions before the Director of the Bituminous Coal Division of the United States Department of the Interior, successor to the Commission; and

The Director having considered the application, the evidence and testimony and the entire record in this proceeding and, upon the basis thereof, having made findings of fact and conclusions, a copy of which is now on file at the Office of the Division in Washington;

It is ordered, That the exemption requested in the application of the Receivers of the Seaboard Air Line Railway

Company be and the same is hereby denied.

Dated, June 14, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-2432; Filed, June 15, 1940; 10:45 a. m.]

General Land Office.

[Circular No. 1472]

REGULATIONS FOR THE SALE OF TOWN LOTS IN THE TOWNSITE OF CLAYTON, IDAHO

1. *Statutory authority.* The lots in the townsite of Clayton, Idaho, will be disposed of under sections 2382 to 2386, Revised Statutes.

2. *Survey and history.* By Executive Order No. 5589 of April 1, 1931, Lots 1, 3, and 4 sec. 25, T. 11 N., R. 17 E., B. M., Idaho, were reserved for townsite purposes. A subdivisional survey of the above mentioned lots 1 and 3 was accepted April 5, 1939. The town was originally established by the old Clayton Mining and Milling Company but title to the tracts remained in the United States.

3. *Area and price.* The area and minimum price of the lots which will be sold are shown by the attached schedule.

Block	Lot	Square feet	Appraised price
1	1	3,033	$15
1	2	3,118	15
1	3	4,008	19
1	4	5,300	23
1	5	3,703	15
1	6	3,879	19
1	7	7,481	30
1	8	7,930	31
1	9	8,175	31
1	10	8,198	40
1	11	4,090	20
1	12	4,084	30
1	13	8,962	45
1	14	5,688	25
1	15	5,676	25
1	16	5,663	25
1	17	6,457	30
1	18	6,442	30
1	19	8,030	35
1	20	7,784	31
2	1	4,430	20
2	2	1,195	15
2	3	2,972	20
2	4	3,471	20
2	5	5,041	25
2	6	4,594	25
2	7	5,178	25
2	8	4,297	25
3	1	3,157	15
4	1	3,850	15
4	2	3,850	15
4	3	4,550	20
4	4	4,777	20
5	2	6,345	27
5	3	6,208	27
5	4	7,452	31
5	5	9,711	35
5	6	12,389	50
6	1	5,398	23
6	2	7,246	27
6	3	8,065	31

4. *Preemption claims and qualifications.* A preemption right of purchase at the minimum price of not exceeding two lots, is extended to actual residents and claimants, for a period of ninety days from the date hereof. In order to secure such right the claimant must file in the District Land Office at Blackfoot, Idaho, during such period, an application for such preemption right to purchase, setting forth therein lot or lots claimed, the date of settlement, the value, character, and location of the improvements, that he or she is 21 years of age or over, or the head of a family, and that he or she is a citizen of the United States or has declared intention to become such. To qualify as a preemption claimant for the lot or lots at the minimum price, it must be shown that settlement was initiated on or before August 9, 1938, the time of the commencement in the field of the townsite survey, and that such settlement was maintained to date of proof. A claim is not necessarily forfeited by the settler transferring his or her interest to another, subsequently to accrual of the right, but patent, if issued, will be in the name of the settler and not the transferee.

5. *Publication notice.* The notice of intention to make proof must be made on Form 4-348 and must be published at the applicant's expense in "The Miner", a weekly newspaper published at Mackay, Idaho, for four consecutive issues. The form of such notice shall be furnished by the Register of the District Land Office and shall conform to that usually provided for in this type of case. Proof of publication of notice must be shown by the affidavit of the publisher.

6. *Preemption proof.* Preemption proof may be made before the Register of the District Land Office at Blackfoot, Idaho, or before any officer authorized to take proofs under the homestead laws and must show by record or documentary evidence, where such evidence is usually required, and where not so required by the testimony of witnesses the following: (1) due publication of notice, (2) the applicant's age, (3) the applicant's citizenship, and (4) the applicant's actual residence upon one lot and substantial improvements on a second lot where two lots are included in the application. The proof must embrace the testimony of the applicant and of at least two of the advertised witnesses. As to proof of citizenship, the claimant, if native born, may make affidavit of such fact, and if naturalized, the claimant should submit a sworn statement giving the facts as to citizenship status, which statement should include the date of the alleged naturalization or declaration of intention, the title and location of the court in which instituted and when available, the number of the document in question, if the proceeding has been had since September 26, 1906. In addition, in cases of naturalization prior to September 27, 1906, there should be given the date and place of the claimant's birth and the foreign country of which he or she was a citizen or subject.

7. *Purchase price.* The purchase price for the lots must be paid to the Register when proof is made.

FRED W. JOHNSON,
Commissioner.

Approved, May 29, 1940.

OSCAR L. CHAPMAN,
Assisant Secretary of the Interior.

[F. R. Doc 40-2449; Filed, June 17, 1940; 9:36 a. m.]

STOCK DRIVEWAY WITHDRAWAL NO. 81, NEW MEXICO NO. 12, REDUCED

JUNE 7, 1940.

Departmental order of April 29, 1919, creating Stock Driveway Withdrawal No. 81, New Mexico No. 12, under section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, is hereby revoked so far as it affects the following-described lands, which are within New Mexico Grazing District No. 2, established March 27, 1936:

NEW MEXICO PRINCIPAL MERIDIAN

T. 26 N., R. 10 W.,
all of secs. 30 and 31;
T. 27 N., R. 11 W.,
SW¼ sec. 27, S½ sec. 28, S½ sec. 29, S½ sec. 30, N½, N½SE¼ sec. 33, all sec. 34;
aggregating 3,434.27 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 40-2446; Filed, June 17, 1940; 9:35 a. m.]

DEPARTMENT OF AGRICULTURE.

Food and Drug Administration.

[Docket No. FDC-18]

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE ON THE BASIS OF WHICH TO DETERMINE WHETHER THE REGULATION ESTABLISHING THE DEFINITION AND STANDARD OF IDENTITY FOR CANNED ASPARAGUS SHOULD BE AMENDED

PRESIDING OFFICER'S SUGGESTED FINDINGS OF FACT AND SUGGESTED ORDER

Upon the basis of the evidence received in the above-entitled hearing duly held pursuant to the notice issued by the Secretary on May 1, 1940, and published in the FEDERAL REGISTER of May 3, 1940, the undersigned Presiding Officer, having presided pursuant to the Secretary's designation contained in said notice of hearing, suggests the following findings of fact and order, namely:

Finding 1

Canned asparagus is commonly marketed in three distinct forms with respect to their length, and these forms of asparagus are respectively known to con-

sumers as "asparagus points," "asparagus tips," and "asparagus stalks" or "asparagus spears" (R., pp. 32–33; O.P. Ex. 1).

Finding 2

The character of asparagus is such that, when good commercial methods are employed in preparing it for canning, all pieces are not cut to an identical length with the result that some variations exist in the lengths of the respective pieces contained in a can marketed under a certain designation as to the form of the asparagus contained therein (R., pp. 11–14, 34–35).

Finding 3

The form of asparagus commonly designated and known by consumers as "asparagus stalks" or "asparagus spears", peeled or unpeeled, is the upper end of the asparagus cut off so that no piece is less than three and three-quarter inches in length (R., pp. 10–11, 19, 35; O.P. Ex. 1).

Finding 4

The form of asparagus commonly designated and known by consumers as "asparagus tips" is the upper end of the asparagus cut off so that each of the pieces is not less than two and three-quarter but less than three and three-quarter inches in length (R., pp. 19, 34–35; O.P. Ex. 1).

Finding 5

The form of asparagus commonly designated and known by consumers as "asparagus points" is the upper end of the asparagus cut off so that all pieces are less than two and three-quarter inches in length (R., pp. 19, 36; O.P. Ex. 1).

Finding 6

Canned asparagus is generally marketed in certain standard sized cans in which the respective lengths will fit so that the ends will neither be crushed in the packing process nor will they be injured by reason of any looseness when the filled and sealed can is handled (R., pp. 17–18, 21–22, 26, 28–29, 32, 40; O.P. Ex. 1).

Finding 7

The lengths specified in the existing standard of identity for the respective forms of canned asparagus do not conform to the lengths of those forms as they have been and now are marketed, and asparagus cut to such specified lengths cannot be packed in the standard sized cans most commonly used for that purpose (R., pp. 9, 13–14, 19–20, 30, 34–35; O.P. Ex. 1).

Conclusion

On the basis of the foregoing suggested findings of fact, it is concluded that subsection (b) of the existing definition and standard of identity for canned asparagus promulgated by the Secretary on February 27, 1940 (§ 52.990, Title 21, CFR), should be amended by deleting from the provisions contained in the table of said subsection which relate to asparagus, the language appearing in brackets, and by inserting in lieu of the language so deleted the language appearing in italics, as follows:

I Name or synonym of canned vegetable	II Source	III Optional forms of vegetable ingredient
Asparagus	Edible portions of sprouts of the asparagus plant, as follows:	
	[Four] *Three and three-quarter* inches or more of upper end.	Stalks or spears.
	[Four] *Three and three-quarter* inches or more of peeled upper end.	Peeled stalks or peeled spears.
	[Three and one-quarter to] *Not less than two and three-quarter inches but* less than [four] *three and three-quarter* inches of upper end.	Tips.
	Less than [three and one-quarter] *two and three-quarter* inches of upper end.	Points.
	Sprouts cut in pieces	Cut stalks or cut spears.
	Sprouts from which the tip has been removed, cut in pieces.	Bottom cut or cuts—tips removed.

Any interested party may submit written objections to the foregoing suggested findings of fact and suggested amendment to said regulation by filing them in quintuplicate with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., within 10 days after receipt of a copy of the FEDERAL REGISTER in which the foregoing is published.

[SEAL] MICHAEL F. MARKEL,
Presiding Officer.

Dated, June 13, 1940.

[F. R. Doc. 40–2438; Filed, June 15, 1940; 11:54 a. m.]

[Docket No. F.D.C.–19]

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE UPON THE BASIS OF WHICH TO DETERMINE WHETHER THE EXISTING REGULATION FIXING AND ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR CANNED CHERRIES SHOULD BE AMENDED

PRESIDING OFFFICER'S SUGGESTED FINDINGS OF FACT AND SUGGESTED ORDER

Upon the basis of the evidence received in the above-entitled hearing duly held pursuant to the notice issued by the Secretary on May 4, 1940, and published in the FEDERAL REGISTER on May 7, 1940, the undersigned Presiding Officer, having presided pursuant to the Secretary's designation contained in said notice of hearing, suggests the following findings of fact and order, namely:

Finding 1

The canned cherries commonly marketed or known by consumers as "red sour cherries" are sometimes also marketed as "red tart cherries" by some manufacturers and in some localities some consumers also know such cherries by the name "red tart cherries" (R., pp. 31, 36; O. P. Exs. 1, 2)

Finding 2

In the existing standard of identity for red sour cherries, the name "red tart cherries" is not recognized as a synonym of the name "red sour cherries" (§ 27.030, Title 21, CFR)

Conclusions

On the basis of the foregoing suggested findings of fact, it is concluded that subsections (a) (1) and (b) (1) of the existing standard of identity for canned cherries promulgated by the Secretary on January 6, 1940 (§ 27.030, Title 21, CFR), should be amended by inserting therein the provisions appearing in italics, as follows:

(a) (1) Canned cherries are the food prepared from mature cherries of one of the following varietal groups: red sour *or red tart*, light sweet, dark sweet. They may be unpitted or pitted. Unpitted cherries of each such varietal group and pitted cherries of each such varietal group, are an optional cherry ingredient.

(b) (1) The label shall name the optional cherry ingredient present by the use of the words "Red Sour" or *"Red Tart"*; "Red Sour Pitted" or *"Red Tart Pitted"*; "Light Sweet"; "Light Sweet Pitted"; "Dark Sweet"; or "Dark Sweet Pitted".

Any interested party may submit written objections to the foregoing suggested findings of fact and suggested amendment to said regulation by filing them in quintuplicate with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., within 5 days after receipt of a copy of the FEDERAL REGISTER in which the foregoing is published.

[SEAL] MICHAEL F. MARKEL,
Presiding Officer.

Dated, June 13, 1940.

[F. R. Doc. 40–2439; Filed, June 15, 1940; 11:54 a. m.]

[Docket No. FDC–20]

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE UPON THE BASIS OF WHICH TO DETERMINE WHETHER THE EXISTING REGULATION FIXING AND ESTABLISHING REASONABLE STANDARD OF QUALITY FOR CANNED CHERRIES SHOULD BE AMENDED

PRESIDING OFFICER'S SUGGESTED FINDINGS OF FACT AND SUGGESTED ORDER

Upon the basis of the evidence received in the above-entitled hearing duly held pursuant to the notice issued by the Secretary on May 4, 1940, and published in

the FEDERAL REGISTER on May 7, 1940, the undersigned Presiding Officer, having presided pursuant to the Secretary's designation contained in said notice of hearing, suggests the following findings of fact and order, namely:

Finding 1

Cherry pits or fragments of cherry pits are not entirely eliminated when pitted canned cherries are prepared for canning so that both pits and fragments of pits are sometimes found in such canned cherries, which pits or fragments of pits may be imbedded in the flesh of the cherry or attached thereto or they may be loose in the packing medium (R., pp. 11–12, 28–29, 40–41, 44; O.P. Ex. 1).

Finding 2

The following is a reasonable and customary method of counting the cherry pits and fragments of cherry pits contained in canned cherries in determining compliance with the tolerance for pits prescribed in the existing standard of quality for pitted canned cherries, namely:

Take at random such number of containers as to have a total quantity of contents of at least 24 pounds. Open the containers and weigh the contents. Count the pits and pieces of pit shell in such total quantity. Count a piece of pit shell equal to or smaller than one-half pit shell as one-half pit, and a piece of pit shell larger than one-half pit shell as one pit; but when two or more pieces of pit shell are within or attached to a single cherry, count such pieces as one-half pit if their combined size is equivalent to that of one-half pit shell or less, and as one pit if their combined size is equivalent to that of more than one-half pit shell. From the total number of pits so counted and the combined weight of the contents of all the containers, calculate the number of pits present in each 20 ounces of canned cherries (R., pp. 36–37, 44).

Finding 3

The method of counting the cherry pits or fragments of cherry pits, prescribed in the existing standard of quality for pitted canned cherries for the purpose of determining whether the tolerance therein prescribed is met, makes no distinction in the method of counting the fragments of cherry pits which are imbedded in or attached to the flesh of the cherry and those which are loose in the packing medium (§ 27.031, Title 21, CFR).

Conclusion

On the basis of the foregoing suggested findings of fact, it is concluded that subsection (b) (1) of the existing standard of quality for red sour pitted cherries promulgated by the Secretary on January 6, 1940 (§ 27.031, Title 21, CFR), be amended by deleting therefrom the language occurring in brackets and by inserting in lieu thereof the language appearing in italics, as follows:

(b) (1) Pitted canned cherries shall be tested by the following method to determine whether or not they comply with the requirements of clause (1) of subsection (a):

Take at random such number of containers as to have a total quantity of contents of at least 24 pounds. Open the containers and weigh the contents. [Count the pits and pieces of pits in such total quantity. Count a piece of pit equal to or smaller than ½ pit as ½ pit; count a piece of pit larger than ½ pit as 1 pit]. *Count the pits and pieces of pit shell in such total quantity. Count a piece of pit shell equal to or smaller than one-half pit shell as one-half pit, and a piece of pit shell larger than one-half pit shell as one pit; but when two or more pieces of pit shell are within or attached to a single cherry, count such pieces as one-half pit if their combined size is equivalent to that of one-half pit shell or less, and as one pit if their combined size is equivalent to that of more than one-half pit shell.* From the total number of pits so counted and the combined weight of the contents of all the containers, calculate the [average] number of pits present in each 20 ounces of canned cherries.

Any interested party may submit written objections to the foregoing suggested findings of fact and suggested amendment to said regulation by filing them in quintuplicate with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., within 5 days after receipt of a copy of the FEDERAL REGISTER in which the foregoing is published.

[SEAL] MICHAEL F. MARKEL,
Presiding Officer.

Dated, June 13, 1940.

[F. R. Doc. 40–2440; Filed, June 15, 1940; 11:55 a. m.]

Rural Electrification Administration.

[Administrative Order No. 471]

ALLOCATION OF FUNDS FOR LOANS

JUNE 7, 1940.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for a loan for the project and in the amount as set forth in the following schedule:

Project Designation:	*Amount*
Illinois 0–R9033R1 Hancock	$25,000

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 40–2427; Filed, June 14, 1940; 2:57 p. m.]

[Administrative Order No. 470]

AMENDMENT OF PRIOR ALLOCATION OF FUNDS FOR LOAN

JUNE 7, 1940.

I hereby amend Administrative Order No. 314, dated December 29, 1938, and Administrative Order No. 324, dated March 11, 1939, by reducing the allocation of $403,000 therein made for "Illinois R9033A1 Hancock" by $25,000, so that the reduced allocation shall be $378,000.

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 40–2462; Filed, June 17, 1940; 11:21 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

[Administrative Order No. 55]

ACCEPTANCE OF RESIGNATION FROM AND APPOINTMENT TO INDUSTRY COMMITTEE NO. 12 FOR THE CARPET AND RUG INDUSTRY

By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Philip B. Fleming, Administrator of the Wage and Hour Division, Department of Labor,

Do hereby accept the resignation of Mr. William E. Simkin from Industry Committee No. 12 for the Carpet and Rug Industry and do appoint in his stead as representative for the public on such Committee, Mr. William N. Loucks, of Philadelphia, Pennsylvania.

Signed at Washington, D. C., this 14 day of June 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40–2441; Filed, June 15, 1940; 12:07 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE CHERRY PACKING INDUSTRY

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued pursuant to Section

14 of the said Act and § 522.5 (b) of Regulations Part 522 (4 F.R. 2088), as amended (4 F.R. 4226), to the employers listed below effective June 18, 1940. These Certificates are issued upon their representations that experienced workers for the learner occupations are not available and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. These Certificates may be canceled in the manner provided for in § 522.5 (b) of the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of § 522.5 (b).

The following firm is hereby authorized to employ as learners not more than 50% of the total number of packers in the occupation of cherry packing for a learning period not to exceed four (4) weeks at a wage rate of not less than 22½ cents per hour:

F. H. Cubberly Fruit Company, Yakima, Washington.

This Certificate expires July 16, 1940.

The following firms are hereby authorized to employ the number of learners as indicated opposite their names in the occupation of cherry packing for a learning period not to exceed four (4) weeks at a wage rate of not less than 22½ cents per hour: (NOTE: The Certificates for the following firms were made effective June 15, 1940, but were inadvertently omitted in the FEDERAL REGISTER.)

Apple Growers Association, Hood River, Oregon (10 learners).

Duckwall Bros., Inc., Hood River, Oregon (10 learners).

These Certificates expire July 13, 1940.

Signed at Washington, D. C., this 17th day of June 1940.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 40-2470; Filed, June 17, 1940; 11:40 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued under Section 14 of the said Act and § 522.5 of Regulations Part 522, as amended, to the employers listed below effective June 18, 1940. These Certificates may be canceled in the manner provided for in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of §§ 522.13 or 522.5 (b), whichever is applicable of the aforementioned Regulations.

The employment of learners under these Certificates is limited to the occupations, learning periods, and minimum wage rates specified in the Determination or Order for the Industry designated below opposite the employer's name and published in the FEDERAL REGISTER as here stated:

Regulations, Part 522, May 23, 1939 (4 F.R. 2088), and as amended October 12, 1939 (4 F.R. 4226).

Hosiery Order, August 24, 1939 (4 F.R. 3711).

Apparel Order, October 12, 1939 (4 F.R. 4225).

Knitted Wear Order, October 24, 1939 (4 F.R. 4351).

Textile Order, November 8, 1939 (4 F.R. 4531); as amended, April 27, 1940 (5 F.R. 1586).

Glove Order, February 20, 1940 (5 F.R. 714).

Telephone Order, April 9, 1940 (5 F.R. 1371).

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Kingwood Hosiery Mill Company, Sigler Street, Kingwood, West Virginia; Hosiery; Full Fashioned; 3 learners; September 18, 1940.

Bristol Frocks, Bristol, Rhode Island; Apparel; Dresses; 5 learners; October 24, 1940.

Cherryland Manufacturing Company, Traverse City, Michigan; Apparel; Cotton Work Trousers; 30 learners; October 15, 1940.

Southern States Manufacturing Company, Douglasville, Georgia; Apparel; Work Pants; 20 learners; October 15, 1940.

Phoenix Hosiery Company, 320 East Buffalo Street, Milwaukee, Wisconsin; Textile; Silk Throwing; 7 learners; October 24, 1940.

Scotsmoor Company, Inc., Johnstown, New York; Glove; Knit Wool Gloves; 5 percent; October 24, 1940.

Scotsmoor Company, Inc., Johnstown, New York; Glove; Knit Wool Gloves; 5 learners; October 24, 1940.

Deposit Telephone Company, Inc., 134 Front Street, Deposit, New York; Independent Branch of the Telephone Industry; to employ learners as indicated in the Telephone Order as commercial and switchboard operators until December 31, 1940.

Signed at Washington, D. C., this 17th day of June 1940.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 40-2471; Filed, June 17, 1940; 11:40 a. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 363]

IN THE MATTER OF THE APPLICATION OF ALL AMERICAN AVIATION, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF ORAL ARGUMENT

The above-entitled proceeding, being the application of All American Aviation, Inc., for a certificate of public convenience and necessity authorizing air transportation between Pittsburgh, Pa., and Huntington, W. Va.; Pittsburgh, Pa., and Cleveland, Ohio; Pittsburgh, Pa., and Buffalo, N. Y.; and Pittsburgh, Pa., and New York, N. Y., is assigned for oral argument before the Authority on June 20, 1940, 10 o'clock a. m. (Eastern Standard Time), in Room 5044, Commerce Building, Washington, D. C.

Dated Washington, D. C., June 14, 1940.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 40-2468; Filed, June 17, 1940; 11:38 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. G-145]

IN THE MATTER OF SOUTHERN CARBON COMPANY

ORDER GRANTING APPLICATION FOR REHEARING AND RECONSIDERATION

JUNE 12, 1940.

Commissioners: Leland Olds, Chairman; Claude L. Draper, John W. Scott, Clyde L. Seavey, Basil Manly, not participating.

Upon application filed with the Commission on May 17, 1940, by the Southern Carbon Company, praying that the Commission reconsider and grant rehearing with respect to its order of April 20, 1940, disallowing proposed increased rates or charges for the sale of natural gas by the Southern Carbon Company to the Mississippi River Fuel Corporation for resale for ultimate public consumption for domestic or commercial use;

The Commission orders that:

(A) The application of the Southern Carbon Company for reconsideration and rehearing with respect to the Commission's order of April 20, 1940, in this proceeding be and it is hereby granted;

(B) The rehearing herein granted shall be limited to oral argument of one hour for counsel for Respondent and one hour for Commission counsel before Examiner Marvin Farrington, said argument to be had in the Hearing Room of

the Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., commencing at 10 a. m., E. S. T., on July 8, 1940.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 40-2428; Filed, June 15, 1940; 9:27 a. m.]

[Docket No. G-146]

IN THE MATTER OF INTERSTATE NATURAL GAS COMPANY, INCORPORATED, HOPE PRODUCING COMPANY

ORDER GRANTING APPLICATION FOR REHEARING AND RECONSIDERATION

JUNE 14, 1940.

Commissioners: Leland Olds, Chairman; Claude L. Draper, John W. Scott, Clyde L. Seavey. Basil Manly, not participating.

Upon application filed with the Commission on May 18, 1940, by the Hope Producing Company, praying that the Commission reconsider and grant rehearing with respect to its order of April 20, 1940, disallowing proposed increased rates or charges for the sale of natural gas by the Hope Producing Company to the Mississippi River Fuel Corporation for resale for ultimate public consumption for domestic or commercial use;

The Commission orders that:

(A) The application of the Hope Producing Company for reconsideration and rehearing with respect to the Commission's order of April 20, 1940, in this proceeding be and it is hereby granted;

(B) The rehearing herein granted shall be limited to oral argument of one hour for counsel for Respondent and one hour for Commission counsel before Examiner Marvin Farrington, said argument to be had in the Hearing Room of the Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., commencing at 10 a. m., E. S. T., on July 8, 1940.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 40-2445; Filed, June 17, 1940; 9:35 a. m.]

INTERSTATE COMMERCE COMMISSION.

[No. 27365]

FREIGHT FORWARDING INVESTIGATION

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 11th day of June, A. D. 1940.

Upon further consideration of the record in the above-entitled proceeding, and good cause appearing therefor:

It is ordered, That the above-entitled proceeding be, and it is hereby, reopened for further hearing concerning the lawfulness of the rates, charges, rules, regulations, and practices of respondent rail carriers affecting the loading and unloading of carload freight of freight forwarders at respondents' freight stations at Chicago, Ill., and St. Louis, Mo.

It is further ordered, That the scope of the proceeding be, and it is hereby, broadened to embrace the rates, charges, rules, regulations, and practices of respondent rail carriers affecting the loading and unloading of carload freight of shippers, other than freight forwarders, at respondents' freight stations at Chicago, Ill., and St. Louis, Mo.

And it is further ordered, That this proceeding, to the extent that it has been reopened and its scope broadened herein be, and it is hereby, set for further hearing on July 15, 1940, at 10 a. m., standard time, at the Morrison Hotel, Chicago, Ill., before Examiner Trezise. At this hearing respondents will be expected to introduce evidence to show the cost of loading and unloading of all carload freight at each of their freight stations at the points named.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 40-2455; Filed, June 17, 1940; 10:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 30-110]

IN THE MATTER OF EAST TENNESSEE LIGHT & POWER CO.

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of June, A. D. 1940.

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on July 8th, 1940, at 9:45 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 3, 1940.

The matter concerned herewith is in regard to the application of East Tennessee Light & Power Company for an order of the Commission declaring that it has ceased to be a holding company. The application states that it is filed pursuant to Section 5 (d) of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 40-2456; Filed, June 17, 1940; 11:08 a. m.]

[File No. 70-82]

IN THE MATTER OF NATIONAL GAS & ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of June, A. D. 1940.

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on June 24, 1940, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 24, 1940.

The matter concerned herewith is in regard to the acquisition by the Indenture Trustee of National Gas & Electric

Corporation of Series B Bonds of that company, employing for the purpose $20,000 of cash deposited with it by the company; and acquisition by the company of not more than $20,000 of said Series B Bonds on the open market for tender to the Trustee for sinking fund purposes on or before December 1, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 40-2458; Filed, June 17, 1940; 11:08 a. m.]

[File No. 70-84]

IN THE MATTER OF NEW ENGLAND GAS AND ELECTRIC ASSOCIATION, CAPE & VINEYARD ELECTRIC COMPANY

NOTICE OF FILING OF DECLARATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th of June, A. D. 1940.

Notice is hereby given that New England Gas and Electric Association, a registered holding company, and Cape & Vineyard Electric Company, its wholly-owned subsidiary, have filed a declaration with this Commission pursuant to Rule U-12B-1 promulgated under the Public Utility Holding Company Act of 1935, relating to an advance on open account by New England Gas and Electric Association to Cape & Vineyard Electric Company in the sum of $150,000 bearing interest at the rate of 3½% per annum. Said declaration states that the proceeds, together with other funds, are to be used by Cape & Vineyard Electric Company for the purchase and installation of a 23,000 volt cable to the island of Martha's Vineyard.

Pursuant to the provisions of Rule U-12B-1 said declaration will become effective on the 1st day of July 1940, unless prior to that date the Commission shall issue an order for hearing on such declaration, or unless such effective date is otherwise delayed in accordance with the provisions of said rule.

Notice is given to States, State Commissions, State Securities Commissions, Municipalities and other political subdivisions of a state, to consumers and security holders, and to representatives of consumers or of security holders and to all other persons, of the filing of the aforesaid declaration, and any request that a hearing be held with respect to said declaration shall be filed with the Commission not later than June 25, 1940. Any such request for hearing shall include a statement of reasons why such hearing is requested.

Pursuant to direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 40-2457; Filed, June 17, 1940; 11:08 a. m.]

[File No. 32-179]

IN THE MATTER OF PORTLAND GAS & COKE COMPANY

ORDER RELEASING JURISDICTION REGARDING CERTAIN DOCUMENTS

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of June, A. D. 1940.

The Commission having by its order entered in the above matter on the 27th day of October 1939, reserved jurisdiction to consider the terms of any subsequent modification of the deposit agreement or extension plan or of the soliciting literature and to consider the terms of any supplemental indentures to be executed in connection with the extension plan; and the applicant having filed on November 15, 1939 and on May 23, 1940 amendments to its application in the above matter containing, among other things, copies of certain documents concerning which jurisdiction had been so reserved; and the Commission having considered the terms thereof:

It is ordered, That the jurisdiction reserved in the aforesaid order of October 27, 1939 be, and the same hereby is, released.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 40-2459; Filed, June 17, 1940; 11:08 a. m.]